

FILING AN FORCIBLE DETAINER / EVICTION SUIT

VENUE:

Suit for possession of property and delinquent rent shall be filed in the precinct in which all or part of the property is located.

REQUISITES:

If the occupant is a tenant under a written lease or oral rental agreement, the landlord must give a tenant who defaults or hold over beyond the end of the rental term or renewal period at least **THREE DAY WRITTEN NOTICE TO VACATE THE PREMISES** before the landlord files a Forcible Detainer Suit, *unless the parties have contracted for a shorter or longer period in a written lease or agreement.*

To recover attorney's 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, return receipt requested.

Notice to vacate may be personal delivery to the tenant or any person residing at the premises who is sixteen (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 by mail may be registered or certified mail, return receipt requested, to the premises in question.

JURISDICTION:

In a Forcible Entry and Detainer Suit, the Court may render judgment for possession of the property in question. The landlord may receive judgment for back rent if the amount in controversy is not more than \$10,000.00

FILING SUIT:

The responsibility for filling out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have a procedural question. List each adult tenant on the lease or in a verbal agreement. State the tenant's full address including apartment number. List any known work address or other address where the tenant may be located for service.

Paragraph #3 of the attached petition describes three separate causes of action. The first cause is for **NON-PAYMENT OF RENT**. The second cause is for **BREACH OF LEASE/CONTRACT** by the tenant. The third is for **HOLDING OVER THE LEASE PREMISES** by the tenant.

If neither is chosen, then the last paragraph will cover the cause of action known as owner wants possession.

When filing, the landlord should bring the following:

- A. A copy of the lease (if you have one);
- B. A copy of the notice to vacate;
- C. Filing fee is \$46.00 and service fee is \$100.00 per person.

Generally, all parties named in the lease should be sued and served with citation in the eviction proceeding. Any Judgment granted will run only against those who are specifically named and served.

CITATION:

The Constable will serve each tenant with citation based on the information you give to the Court. The tenant will be informed in the citation the DATE and TIME of the hearing and a DEFAULT JUDGMENT may be rendered against him/her if he/she does not appear at the time designated.

REPRESENTATION:

The landlord's agent may file any type of eviction suit and may represent the landlord at any default judgment hearing. If the case is contested, an agent may represent either party if the case involves non-payment of rent or holding over.

HEARING:

Always arrive at least ten (10) minutes prior to trial and check in with the clerk and identify yourself by name along with the names of any witnesses that you want sworn to give testimony.

IF THE TENANT APPEARS AT HEARING:

- A. The Judge will hear both sides:
- B. The Judge will render a judgment
- C. If the Judge rules in the landlord favor, the tenant will have five (5) days to appeal to County Court and or must vacate premises by date set by the court.

IF THE TENANT FAILS TO APPEAR AT HEARING:

- A. The landlord of landlord's agent will present their case to the Judge;
- B. If the Judge rules in the landlord's favor, a Default Judgment will be granted.

IF THE TENANT DOES NOT MOVE WITHIN SEVEN (7) DAYS AFTER JUDGMENT OR DOES NOT APPEAL TO COUNTY COURT;

- A. A Writ of Possession may be requested and filed.
- B. The Cost of a Writ of Possession is \$100.00
- C. A Writ of Possession shall order the officer executing the writ to instruct the tenant to remove or allow the landlord, the landlord's agent, or persons acting under the officer's supervision to remove all personal property claimed to be owned by the landlord and place or have an authorized person place the removed personal property outside the rental unit at a nearby location or street and NOT while it is raining, sleeting or snowing.

NO LEGAL QUESTIONS WILL BE ANSWERED BY THIS OFFICE. If you have additional PROCEDURAL questions, please contact this office at (361) 645-3663.

All correspondence should be addressed to:

ERMALINDA RODRIGUEZ

CHIEF JUSTICE COURT CLERK

erodriguez@goliadcountytexas.gov

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 \$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 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.
<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.

Judge Susan Moore
 Justice of the Peace, Pct. One Pl. One
 PO Box 678
 329 W. Franklin St
 Goliad, Texas 77963

Chief Justice Court Clerk
 Ermalinda Rodriguez
 erodriguez@goliadcountytexas.gov
 Phone: 361-645-3663
 Fax: 361-645-8067

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
v.	§	PRECINCT NO. ONE
_____	§	
DEFENDANT	§	GOLIAD COUNTY, TEXAS

PETITION: EVICTION CASE

COMPLAINT: Plaintiff hereby sues the following Defendant(s)

_____ for eviction of Plaintiff's premises (including storerooms and parking areas) located in the above precinct.

The address of the property is:

_____	_____	_____	_____	_____
Street Address	Unit No. (if any)	City	State	Zip

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): _____. 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 renewal of extension period, which was the ____ day of _____, 20__.

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 _____, 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):

Date of birth: _____

Address of Plaintiff or Agent or Attorney

Last three digits of Driver License: _____

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

City State Zip

Phone No.: _____

Phone & Fax No. of Plaintiff
or Agent or Attorney

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20_____

CLERK OF THE JUSTICE COURT OR NOTARY

THE SERVICEMEMBERS CIVIL RELIEF ACT

The Servicemembers Civil Relief Act ("SCRA") is a federal law which imposes certain procedural requirements in civil cases to protect members of the armed services and their families. These requirements apply to any court of any state whether or not the court is a court of record.

In any case in which the defendant does not make an appearance, before entering a judgment for the plaintiff the court "shall require the plaintiff to file with the court an affidavit:

- (A) stating whether or not the defendant is in military service and *showing necessary facts to support the affidavit*; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that *the plaintiff is unable to determine whether or not the defendant is in military service*.

If the plaintiff fails to file an affidavit under the SCRA in an eviction case, the court may not grant a default judgment. Likewise, if the plaintiff files an affidavit stating that the defendant is not in military service, but fails to "show necessary facts to support the affidavit," the court may not grant a default judgment.

(Typically, plaintiffs will attach a printout from the Department of Defense website (<https://www.dmdc.osd.mil/scra/owa/home>) but they are not required to use that form as long as they show "necessary facts" to support the affidavit. For example, in one case a plaintiff attached an affidavit from the defendant's mother stating that he was not in military service.)

A source that can be used to determine the Military Status of a Defendant, is the following *Service Member's Civil Relief Act* website:
<https://www.dmdc.osd.mil/scra/owa/home>

Or, if you are unable to use this website you may request Active Duty Verifications by mail:

You must provide a SSN and a last name. The birth date is optional, but suggested when available. The SSN must match for the DMDC to identify an individual as on Active Duty.

Military verification requests by mail can be sent with a self-addressed stamped envelope to the following address.

Defense Manpower Data Center Attn: Military Verification 1600 Wilson Blvd., Suite 400 Arlington, VA 22209-2593

Please note Defense Manpower will not process your request without a self-addressed stamped envelope.

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA



Cause Number: _____
(The Clerk's office will fill in the Cause Number when you file this form)

Plaintiff: _____
(Print first and last name of the person filing the lawsuit.)

In the (check one):
 District Court
 County Court / County Court at Law
 Justice Court

And

Defendant: _____
(Print first and last name of the person being sued.)

County _____ Texas

Statement of Inability to Afford Payment of Court Costs or an Appeal Bond

1. Your Information

My full legal name is: _____ My date of birth is: ____/____/____
First Middle Last Month/Day/Year

My address is: (Home) _____
 (Mailing) _____

My phone number: _____ My email: _____

About my dependents: "The people who depend on me financially are listed below."

Name	Age	Relationship to Me
1 _____	_____	_____
2 _____	_____	_____
3 _____	_____	_____
4 _____	_____	_____
5 _____	_____	_____
6 _____	_____	_____

2. Are you represented by Legal Aid?

- I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as 'Exhibit: Legal Aid Certificate.'
- or-
- I asked a legal-aid provider to represent me, and the provider determined that I am financially eligible for representation, but the provider could not take my case. I have attached documentation from legal aid stating this.
- or-
- I am not represented by legal aid. I did not apply for representation by legal aid.

3. Do you receive public benefits?

- I do not receive needs-based public benefits. - or -
- I receive these **public benefits/government entitlements** that are based on indigency:
(Check ALL boxes that apply and attach proof to this form, such as a copy of an eligibility form or check.)
- Food stamps/SNAP TANF Medicaid CHIP SSI WIC AABD
- Public Housing or Section 8 Housing Low-Income Energy Assistance Emergency Assistance
- Telephone Lifeline Community Care via DADS LIS in Medicare ("Extra Help")
- Needs-based VA Pension Child Care Assistance under Child Care and Development Block Grant
- County Assistance, County Health Care, or General Assistance (GA)
- Other: _____

4. What is your monthly income and income sources?

"I get this monthly income:

\$ _____ in monthly wages. I work as a _____ for _____
Your job title Your employer

\$ _____ in monthly unemployment. I have been unemployed since (date) _____.

\$ _____ in public benefits per month.

\$ _____ from other people in my household each month: *(List only if other members contribute to your household income.)*

\$ _____ from Retirement/Pension Tips, bonuses Disability Worker's Comp
 Social Security Military Housing Dividends, interest, royalties
 Child/spousal support
 My spouse's income or income from another member of my household *(if available)*

\$ _____ from other jobs/sources of income. *(Describe)* _____

\$ _____ is my **total monthly** income.

5. What is the value of your property?

"My property includes:	Value*
Cash	\$ _____
Bank accounts, other financial assets	\$ _____
_____	\$ _____
_____	\$ _____
Vehicles (cars, boats) <i>(make and year)</i>	\$ _____
_____	\$ _____
_____	\$ _____
Other property (like jewelry, stocks, land, another house, etc.)	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
Total value of property	→ \$ _____

6. What are your monthly expenses?

"My monthly expenses are:	Amount
Rent/house payments/maintenance	\$ _____
Food and household supplies	\$ _____
Utilities and telephone	\$ _____
Clothing and laundry	\$ _____
Medical and dental expenses	\$ _____
Insurance (life, health, auto, etc.)	\$ _____
School and child care	\$ _____
Transportation, auto repair, gas	\$ _____
Child / spousal support	\$ _____
Wages withheld by court order	\$ _____
Debt payments paid to: <i>(List)</i>	\$ _____
_____	\$ _____
_____	\$ _____
Total Monthly Expenses	→ \$ _____

*The value is the amount the item would sell for less the amount you still owe on it, if anything.

7. Are there debts or other facts explaining your financial situation?

"My debts include: *(List debt and amount owed)* _____

(If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.") Check here if you attach another page.


8. Declaration

I declare under penalty of perjury that the foregoing is true and correct. I further swear:

- I cannot afford to pay court costs.
- I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision.

My name is _____ My date of birth is : ____ / ____ / ____.

My address is _____
Street City State Zip Code Country

 signed on ____ / ____ / ____ in _____ County, _____
Signature Month/Day/Year county name State