

Eviction Additional Information

EVICTON SUIT PROCEDURE

The Limit of the Court is \$20,000

TRCP 500-507 and 510 PART V

- Court Cost and Service Fees
 - Filing Fee: \$54.00
 - Service Fee \$95.00 per defendant

If you wish to introduce any written evidence, you must provide printed and/or digital copies (i.e. USB or CD) copies of each document to the court and the opposing party at the time of the hearing.

PLEASE NOTE WHEN CONTACTING THIS COURT:

“A JUDGE SHALL NOT INITIATE, PERMIT, OR CONSIDER EX PARTE COMMUNICATION MADE TO THE JUDGE OUTSIDE THE PRESENCE OF ALL PARTIES.... CONCERNING THE MERITS OF A PENDING OR IMPENDING JUDICIAL PROCEEDING”

“A JUDGE SHALL REQUIRE COMPLIANCE WITH THE SUBSECTION BY COURT PERSONNEL SUBJECT TO HIS OR HER DIRECTION AND CONTROL”

Code of judicial conduct, canon 3, B(8)

Writ of Possession: This instrument directs the Constable or Sheriff to take possession of the property and turn it over to you. **Writ of Possession is \$165.00 service and \$5.00 filing fee for a total of \$170.00.** After fees are paid in full the Writ will be turned over to the appropriate Constable or Sheriff for execution of service. Your telephone number and address will also be given to the Constable or Sheriff so they may contact you. Any questions concerning the Writ should be directed to the Constable or Sheriff.

(ANY PORTION OF THE HOUR BEYOND 2 HOURS AN ADDITIONAL FEE OF \$55.00 PER HOUR OR PORTION) OFFICER DOES NOT PHYSICALLY REMOVE ANY PROPERTY FROM THE PREMISES. THE LANDLORD IS RESPONSIBLE FOR REMOVAL.

PLEASE PRINT. DO NOT WRITE IN CURSIVE.

JUSTICE COURT CIVIL CASE INFORMATION SHEET

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:
<p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>Plaintiff(s):</p> <p>_____</p> <p>_____</p> <p>Defendant(s):</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>

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 in damages, 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, including cost and attorney fees, if any.
<input type="checkbox"/> Repair and Remedy: A repair and remedy case is a lawsuit brought to seek judicial remedy for the alleged failure of a landlord to remedy or repair a condition as required by Chapter 92 of the Texas Property Code. 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, or personal property. The claim can be for no more than \$20,000 excluding statutory interest and court costs but including attorney fees, if any.

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT 3
	§	
_____	§	
DEFENDANT	§	GRAYSON COUNTY, TEXAS

SERVICEMEMBER’S CIVIL RELIEF ACT AFFIDAVIT

Instructions: The Servicemember’s Civil Relief Act applies to a civil proceeding in the Justice Courts. Before entering a default judgment against an individual defendant, the plaintiff must file with the court an affidavit stating whether or not the defendant is in military service, showing necessary facts to support the affidavit, or stating that the plaintiff is unable to determine whether or not the defendant is in military service, if that is the case. The requirement for an affidavit may be satisfied by a written, signed document declared to be true under penalty of perjury. If it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is unable to determine if the defendant is in military service, the court may require the plaintiff to file a bond in an amount approved by the court. To obtain certificates of service or non-service under the Servicemember’s Civil Relief Act, you may access the public website: <https://www.dmdc.osd.mil/appli/scra/scraHome.do>. This website will provide the current active military status of an individual.

Plaintiff being duly sworn under oath swears that Defendant is: *(check one)*

- not on active duty in the military
- on active military duty and/or is subject to the Servicemember’s Civil Relief Act of 2003
- has waived in writing his/her rights under the Servicemember’s Civil Relief Act of 2003
- military status is unknown at this time

PLAINTIFF

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

CLERK OF THE JUSTICE COURT OR NOTARY

**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.*

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT <u>3</u>
	§	
_____	§	
DEFENDANT	§	<u>GRAYSON</u> COUNTY, TEXAS

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
----------------	--------------------------	------	-------	-----

GROUND 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, which was 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:

Amount of the Monthly Rent \$ _____

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.

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

Resources and Referral Information

Texas Law Help

www.texaslawhelp.org

The Texas Law Help website is a resource for people who do not have an attorney. Topics offered on the website include:

- Civil Rights
- Landlord Tenant
- Family Law
- Consumer Cases
- Mediation
- Forms & Instructions
- Wills and Estates
- Domestic Violence
- Juvenile Cases
- Spanish Resources
- Seniors
- Veteran Issues

Alternative Dispute Resolution <http://www.texasadr.org/>

Going to court litigation may not always be the best way to resolve a problem. Alternative dispute resolution (ADR) is one way to work out an agreement. Mediation and arbitration, for example, both involve neutral, third parties who may facilitate a resolution. ADR can be used for many types of cases, including co-parenting, divorce, probate, contract disputes, other civil cases and appeals.

State Bar of Texas

www.texasbar.com

The State Bar of Texas Client-Attorney Assistance Program helps resolve problems between clients and attorneys. Also, a person with a complaint against an attorney may file a formal complaint (“grievance”) against the attorney with the State Bar. On the State Bar’s website, select *Client Assistance & Grievance* for more information. The State Bar’s Texas Lawyers Care department publishes a [referral directory of legal services and other resources](#) for low-income Texans.

Texas Law Libraries

Law libraries have print and online resources including statutes, regulations, court rules, and court decisions, as well as legal encyclopedias, form books, and books about specific areas of law. Most law books are written for legal professionals, but some books are written for non - lawyers. Law library staff cannot give legal advice, but they can show people how to use their resources.

Texas State Law Library www.sll.state.tx.us
205 West 14th Street Austin,
Texas 78701-1614
(512) 463-1722

Texas Statutes and Legislative Process www.statutes.legis.state.tx.us (Statutes)

www.capitol.state.tx.us (Texas Legislature)

The first website contains state statutes. The second website contains information about bills in the Texas Legislature and the legislative process.

Texas Court System

www.txcourt.gov

The Texas Judicial Branch website contains information about the Texas court system.

Texas Forms

Legal form books provide sample language that can be used to prepare documents to file with the court. Some forms are fill-in-the-blank, while others only provide language that must be tailored to the situation. Forms are not available for every situation.

- Some courts have forms available online or in the clerk's office or county law library. Check on your court's or county's website.
- Some court forms are available at <http://texaslawhelp.org/resource/texas-forms> (click on *a list of forms and topics*.)
- Texas continuing legal education materials often include forms. Search the catalogs of university law libraries for the relevant topic, such as contracts, and include "Texas" in the search.

Legal Assistance Organizations and Other Non-Profit Organizations

www.texaslawhelp.org www.lsc.gov

Contact information for Texas agencies and organizations such as Legal Aid of NorthWest Texas, Texas RioGrande Legal Aid, Lone Star Legal Aid, Advocacy, Inc., Texas Legal Services Center's Legal Hotline for Texans, and the Texas Advocacy Project's Family Law Hotline and Family Violence Hotline, and immigration law resources. On the Texas Law Help website, select the *Find Legal Assistance* tab. This tab also contains information about other organizations that assist with various legal problems, including consumer protection, landlord-tenant, OSHA complaints, complaints about nursing homes, and assistance with utility companies. On the Legal Services Corporation website, select Texas on the map of the United States. Most legal aid programs have income guidelines that determine the people or families they can serve. Persons must apply for assistance. Because of resource limitations, not everyone who qualifies will receive assistance.

Finding an Attorney

The State Bar of Texas Lawyer Referral Information Service is a free service provided by the Texas State Bar to help people find an attorney. Access the State Bar of Texas Lawyer Referral Information Service on the Texas Bar website at www.texasbar.com to Find *a Lawyer*. *Get a referral* on the right side of the page. Most lawyer referral programs refer people to attorneys who charge a nominal fee for the initial consultation; further fees will be negotiated by the attorney and client if they agree to continue.

Other resources include the yellow pages or friends who may have recommendations. Do not provide lawyer referrals. Another resource is www.martindale.com, an online version of the print lawyer directory Martindale-Hubbell. This site can be searched by location and subject specialty, and provides information about a lawyer's education and experience, as well as the ratings other lawyers give them.

Limited Legal Help

Many people cannot afford to hire an attorney. Limited legal help, also known as "limited scope legal representation," is an alternative way to get legal help. Under this kind of arrangement, an attorney and client agree that the attorney will provide specific services for a predetermined fee. For example, the attorney and client could agree that the attorney do one or more (but not all) of the following:

- will only advise the client about the strength of the case;
- help draft a document;
- review a document the client has drafted;
- coach the client for a negotiation;
- help with the discovery process;
- coach the client for a hearing;
- appear in court on behalf of the client for one hearing only; or
- any combination of these kinds of services.

Recursos de asistencia legal

¿No tiene recursos para contratar a un abogado?

Los tribunales no ofrecen servicios legales directos al público, o representan a persona alguna en asuntos legales, ni mantienen un directorio de los abogados que ofrecen servicios legales gratuitos conocidos en inglés como pro bono y tampoco participan en la búsqueda de abogados que ofrecen servicios gratuitos. Tenga presente que los fondos para financiar servicios legales gratuitos o a bajo costo son extremadamente limitados y por ello, estos programas se ven obligados a rechazar casos de muchas personas con necesidades jurídicas importantes. Lo único que el Colegio de Abogados de Texas sí puede ofrecerle es [información](#) para comunicarse con las oficinas que ofrecen servicios legales civiles a bajo costo en su área. Para obtener una lista de los servicios legales que hay en cada condado, diríjase al [Directorio de asistencia legal para texanos de bajos recursos](#) (PDF en inglés).

Si usted no cubre los requisitos para recibir asistencia legal gratuita o a bajo costo, comuníquese al [Servicio de referencia para asesoría legal](#) al teléfono gratuito [\(800\) 252-9690](#). A través del Servicio de referencia para asesoría legal, usted puede obtener una consulta de asesoramiento inicial de treinta minutos con un abogado, pagando \$20 dólares. Al finalizar esta consulta, el abogado y usted podrán conversar sobre la posibilidad de contratarlo como su representante legal y podrán definir el costo de esta representación. Es importante que usted entienda que este Servicio de referencia para asesoría legal no es un servicio legal gratuito pro bono o un programa de honorarios reducidos.

Otros recursos de asistencia legal

- [TexasLawHelp.org](#) - Un sitio para texanos de bajos recursos que ofrece información gratuita y formularios legales, órdenes de protección y otros formularios de autoayuda en asuntos de derecho familiar.
- [TexasCourtHelp.gov](#) - Un sitio con información general y vídeos sobre cómo abrirse paso dentro del sistema judicial.
- [State Bar of Texas Referral Directory](#) - Directorio de asistencia legal para texanos de bajos recursos (PDF en inglés)
- [Texas Lawyers for Texas Veterans](#) - Un proyecto del Colegio de Abogados de Texas para asistir con asuntos legales a los veteranos de las fuerzas militares estadounidenses de bajos recursos.
- [Legal Aid of Northwest Texas](#) - Ofrece servicios en las áreas de Dallas-Fort Worth y el noroeste de Texas.
- [Lone Star Legal Aid](#) - Ofrece servicios en el área de Houston y el este de Texas.
- [Texas RioGrande Legal Aid](#) - Ofrece servicios en las áreas de Austin / San Antonio, El Paso y el sur de Texas.

Self-Help Legal Information Packet: *Filing an Eviction Case*



Self-Help Legal Information Packets are provided for the benefit of justice courts and individuals seeking access to justice through the court system. They do not constitute legal advice, and the court is not responsible for the accuracy of the information contained in the packet.

© Texas Justice Court Training Center 2024. TJCTC is a division of Texas State University, and an Educational Endeavor of the Justices of the Peace and Constables Association, funded through a grant from the Court of Criminal Appeals.

What is an Eviction Case?

An **eviction case** is filed whenever a person or company is trying to recover possession of real property (like land, a house, or an apartment building) from someone else. Usually, it is a landlord filing against a tenant. The person or company filing the case is called the **plaintiff** and the person or company they file against is called the **defendant**.

Do I Need to File an Eviction Case?

The clerk or judge **cannot** give you advice on whether or not to file an eviction case and **cannot** have a conversation with you about the facts of your situation.

If you are trying to end the legal right for a person or company to occupy property that belongs to you, you will need to file an eviction case.

You need to file an eviction case if:

- 1) You are trying to remove someone who was renting your property as their residence;
- 2) You are trying to remove someone who was renting your property for a business or other purpose; or
- 3) You allowed another person to use your property as their residence, even without a written lease or rent involved.

To win an eviction case, you will need to show:

- 1) The tenant **breached their lease** (this means they didn't pay their rent or did something they were not allowed to do under the contract, such as have unauthorized pets);
- 2) The tenant's lease has ended and they haven't left (this could include a month-to-month tenancy that you properly terminated);
- 3) The person was a **tenant at will** (meaning there was no set time when the lease would be over) **and** there was no rent due under the agreement, you gave a proper notice to vacate, and the person didn't leave; or
- 4) The person entered and remains in the property without your permission (**squatter**).

You do **not** need to file an eviction case if:

- 1) You are excluding someone from your property who was not renting the property or using it as their residence (such as an overnight visitor);
- 2) The person has already permanently vacated the property. If they have vacated but still owe you back rent, you can file a Small Claims Case to recover the back rent (see the information packet on ***How to File a Small Claims Case*** for details).

What Do I Do Before Filing an Eviction Case?

Step 1: Breach of Lease or Notice of Termination of Lease

If the defendant has a written lease agreement or pays you rent, you cannot just evict them from the property for no reason. If they have a lease with a set end date, they are entitled to stay in the property until that date, unless they don't pay their rent or violate some other term of the lease.

A **termination notice** is required if either:

- 1) The tenant has a written lease that they did not breach, and that lease does not have a set end date; or
- 2) They do not have a written lease, but there is an agreement that they pay you rent.

The termination notice is a written notice telling them the day that their lease now ends. This notice must be at least one rental payment period. Most agreements without set end dates are “month-to-month” agreements, so you would need to give at least one month's notice. For example, you could give a termination notice on January 27th informing the tenant that the lease is terminated effective February 28th.

If they breached the lease, or there is no written lease and no agreement to pay rent, then no termination notice is needed, and you can proceed to ***Step 2: Notice to Vacate***.

Step 2: Notice to Vacate

You **must always** deliver a **notice to vacate** to the defendant before filing an eviction case. This is a written demand for the defendant to leave the property within a set time. This period of time is **3 days**, unless you agreed in a contract to a different period of time (or the property was purchased at a tax sale, or you are trying to remove the tenant of a person who was foreclosed upon).

The notice to vacate may be delivered to the defendant by:

- 1) Handing it to them personally,
- 2) Mailing it to the premises, addressed to the defendant, or
- 3) Posting it on the **inside** of their front door.

If you cannot post it on the inside of the front door due to a dangerous animal or deadbolt-type device, or because you fear personal harm will come to you or any other person, you may post it on the outside of the front door, in an envelope that has the tenant's name, address, and the words "IMPORTANT DOCUMENT" on it. If you post it on the outside of the front door, you must also mail it to the tenant the same day.

You cannot file the eviction case until the time period in the notice to vacate runs out and the tenant fails to vacate the property. The time period begins on the day the notice is delivered to the tenant.

You **must** give a notice to vacate, even if you already gave a termination notice setting a lease end date. In the example above, you gave a termination notice on January 27th telling the tenant the lease will end on February 28th. If the tenant is still there on March 1st, you would be required now to give them notice to vacate and allow the time period in that notice to run out before filing an eviction case.

If the person is a squatter, you can give them an oral notice to vacate the property immediately. If they fail to leave, you can file an eviction at that time.

Where Do I File an Eviction Case?

Eviction cases **must** be filed in the in the justice court in the precinct and county where the property is located. If you file the case in any other precinct, the court must dismiss your case, and you do not get a refund of the filing fees.

The court may be able to help you determine the proper precinct to file in. Other resources you may use include precinct maps or the elections office. It is ultimately **your responsibility** to file your case in the proper location!

How Do I File an Eviction Case?

The first step in filing a case is to file a **petition**, which is a form that says who you are suing, why you are suing them, how much you are suing them for, and provides contact information. An eviction petition must contain information about what the reason is for eviction (nonpayment of rent, they stayed past the end of their lease, etc.), where the property is located, and how and when you delivered the notice to vacate. If the tenant owes you rent, you need to put that (and how much they owe you) in the petition. The court will likely have a petition form that you can use.

Important – If the tenant owes you money **other than back rent** (like late fees, unpaid utility bills, or property damage), you cannot recover that in an eviction case! Do not put these amounts in your petition. Only back rent, your costs to file the case, and attorney's fees (if you have a written lease authorizing attorney's fees) may be awarded. If the tenant owes you other money, you can file a small claims case to try to recover that money. See the information packet on ***Filing a Small Claims Case*** for details.

The petition must name each and every tenant that you are trying to evict. A tenant is anyone listed on a written lease or any person who is responsible for paying rent to you.

An eviction petition must be **sworn**, meaning you sign it in front of a notary or the clerk or judge, and are swearing under oath that everything in it is true to the best of your knowledge.

When you file the petition, you will have to pay a **filing fee of \$54**. Also, the petition and **citation** (the notice from the court to the defendant that they have been sued) must be **served on** (delivered to) the defendant. You will need to pay an additional **service fee** for each tenant for the constable or sheriff serving the paperwork. You are **not allowed** to deliver the paperwork yourself!

If you win your case, you will be awarded the fees that you had to pay, in addition to the other money you are entitled to recover.

What if I Can't Afford to File a Case?

Courts **must not** deny you access to justice simply because you cannot afford filing fees or service fees. If you are unable to pay those fees, fill out a **Statement of Inability to Afford Payment of Court Costs** form – the court **must** provide this form for you.

You must swear to the information that you provide on this form and can face legal consequences if you do not fill it out to the best of your ability. Fill out the form completely and truthfully!

Do I Need a Lawyer to File a Case?

While you are allowed to have a lawyer in an eviction case, the rules and procedures are designed to be simple and straightforward, allowing people to seek justice without needing to hire a lawyer.

If you do not have a lawyer, the judge may allow you to be assisted or represented in court by a family member or other person, such as a property manager.

The court is required to make the Rules of Civil Procedure available to you at no cost. Rule 510 specifically applies to Eviction Cases and Rules 500-507 are the rules that generally apply to justice courts.

The court is **not** allowed to give you advice on whether you should file a case, who you should file a case against, or what steps you should take to win your case or collect your judgment.

Questions the court **can** answer for you are questions like “What do I need to do to have a jury trial?” or “How many days do I have to file an appeal?”

Questions the court **cannot** answer for you are questions like “Is it a good idea to get a jury for this case?” or “Am I going to win?”

If, after reviewing these materials and the rules, you still are not sure what to do, it may be best to talk to an attorney.

What Happens After I File an Eviction Case?

The court will generate the **citation**, which tells the defendant that they are being sued. The citation then must be served on the defendant. You can either pay the service fee for the constable or sheriff to serve the citation or submit a Statement of Inability showing you cannot afford the fee.

Once the defendant is served with the citation, the court will set your case for trial, which must be at least **6 days** after the defendant was served.

How Do I Send Paperwork to the Defendant?

Any paperwork such as motions, requests for a hearing, appeals, etc., must be sent to the defendant as well as to the court. You can send those papers to the defendant by:

- 1) delivering it to them in person,
- 2) mailing it to them using certified or registered mail,
- 3) using a delivery service such as FedEx or UPS,
- 4) faxing it to them, or
- 5) sending it by email if the defendant provided their email address for document delivery and agreed to email service in writing.

On the copy you give to the court, you must write down how and when the paperwork was delivered to the defendant.

What if We Reach an Agreement?

If the case goes to trial, usually there will be a “winner” and a “loser.” resulting in someone being happy and someone being unhappy. To reduce that risk, parties will often come to a **settlement**, or an agreement on how to resolve the case. If you reach a new agreement with the defendant allowing them to remain in the property, you will need to file a **nonsuit**, which is a request for your case to be

dismissed. If the defendant then breaches that new agreement, you will have to start over from the beginning with a new notice to vacate and a new case.

Can I Have a Jury Trial?

Yes. Either side in an eviction case may request a jury trial. You must make a request in writing to the court at least 3 days before the date set for trial and pay a jury fee of \$22.

If no one requests a jury, the trial will be heard by only the judge, which is called a bench trial.

What if I Need More Time for Trial?

If you need more time for trial or have a conflict with the date that the trial is scheduled, you can file a motion (request) for **postponement**, also called a **continuance**. You should explain in writing why you need the postponement. In eviction cases, the case can't be postponed for more than 7 days unless both sides agree in writing.

Do not just decide not to show up on your trial date! That likely will result in your case being dismissed.

What Happens at the Trial?

Be sure to bring all of your witnesses and documents with you on your trial date! If the trial is a jury trial, the first step will be jury selection, which is formally called **voir dire**.

Next, you will be able to give an opening statement if you wish, where you explain to the judge and jury what the case is about.

After that, you will call any witnesses you have and ask them questions so they can **testify**, or tell their story, to the judge or jury. The defendant will also be able to ask your witnesses questions. You can also testify and show any evidence you may have (such as documents, contracts, cancelled checks, receipts, etc.).

Next, the defendant can present any evidence and call any witnesses that they may have. You get to ask questions of any witnesses they call, which is called **cross-examination**. You may ask the witnesses questions that relate to the facts of the case, but must remain calm, polite, and respectful of the court process, even if you disagree with what the witness says.

Finally, each side can make a final statement, called a **closing argument**, where you explain why you think you should win.

After that, the decision will be made by the jury if there is one, or by the judge if there is no jury. The decision will be announced in open court, and a written **judgment** will be made available.

What if the Defendant Doesn't Appear?

If the defendant doesn't appear at trial, the information in your sworn petition will be taken as the truth. If you provided enough information in your petition, you will be awarded a default judgment. If you did not, you may need to provide information to the court about things such as how and when you delivered the notice to vacate before the court can award you a judgment.

To get a default judgment, you will also need to provide the last known address of the defendant to the court in writing, as well as an affidavit stating whether or not the defendant is on active duty in the U.S. military (or that you do not know if they are), and how you know that they are or not, or why you do not know if they are.

You can verify military service at <https://scra.dmdc.osd.mil/>.

What Happens if I Lose My Eviction Case?

If the judgment is in favor of the defendant, they will be able to remain in possession of the property. If you wish, you can file an **appeal**, which is a request for the county court to hear the eviction case over again. You can file an appeal within 5 days of the judgment. The 5 days include weekends and holidays. If the fifth day is a weekend, holiday, or day the court closes before 5 P.M., you have until the next business day to file your appeal.

To appeal, you will have to file either:

- 1) An **appeal bond** (promise from another person, called a **surety**, to pay the bond amount to the defendant if you don't pursue the appeal) in an amount set by the court;
- 2) A cash deposit in an amount set by the court, which may be awarded to the defendant if you don't pursue the appeal; or
- 3) A Statement of Inability to Afford Payment of Court Costs if you cannot afford an appeal bond or cash deposit.

If you appeal with an appeal bond or a cash deposit, you must pay a filing fee of \$54 or file a Statement of Inability to Afford Payment of Court Costs. You must also send notice of the appeal to the defendant within five days of filing it with the court.

Once your appeal is filed with the county court, you will be required to pay a separate filing fee or file a Statement of Inability to Afford Payment of Court Costs with the county court.

What Happens if I Win My Eviction Case?

If the judgment is in your favor, the defendant has the right to file an appeal as described above.

If you get a judgment in an eviction case based on the defendant not paying rent, and the defendant appeals with an appeal bond or a Statement of Inability, the defendant will be ordered to pay one month's rent to the court. You can then receive that money, which covers the defendant's rent for the first month of the appeal process. This ensures that someone evicted for not paying rent isn't able to stay in the property for free during an appeal. If they do not pay the rent to the court, or if they do not file an appeal but do not leave the property, you can get a **writ of possession**, which is an order for the defendant to be removed from the property.

You will have to pay a fee for issuance of the writ, and a fee to the constable for executing the writ. If a writ is issued, a 24-hour notice will be posted on the door, and if the property isn't vacated in that 24-hour period, the constable will come out and supervise the removal of the defendant's property.

If you were awarded money in the judgment, such as for back rent or attorney's fees, see the ***"What Happens if I Win My Small Claims Case?"*** section of the information packet on Filing a Small Claims Case for information on enforcing money judgments.

Resources

Legal Aid - www.txcourts.gov/programs-services/legal-aid

Texas Lawyer Referral & Information Service - (800) 252-9690

To check military status – <https://scra.dmdc.osd.mil/>

Texas Justice Court Training Center information for self-represented litigants – www.tjctc.org/SRL

Office of Court Administration Self-Represented Litigant Site - www.txcourts.gov/programs-services/self-help/self-represented-litigants/

State Bar of Texas Information, including Legal Information and Low or No-Cost Legal Assistance - www.texasbar.com, and then click on "For The Public."

Forms and Information, including for other types of cases – www.texaslawhelp.org