

Bart Greenway
JUSTICE OF THE PEACE
ERATH COUNTY, PRECINCT 2

EVICTIONS

(a) **EVICITION:** 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, including costs and 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.

IMPORTANT NOTICE:

APPROPRIATE COURTROOM ATTIRE IS REQUIRED. All persons entering the courtroom should be dressed in clothing reasonably befitting the dignity and solemnity of the court proceedings. Cell phones and other electronics must be turned off when in the courtroom. Food and drink is not allowed in the courtroom.

Erath County Dublin Annex, 219 South Grafton, Dublin, TX 76446

(254) 445-2766 – civil clerk

(254) 445-4155 – fax

<http://co.erath.tx.us/jpcourtdublin.html>

Bart Greenway

JUSTICE OF THE PEACE, PRECINCT 2



PLEASE READ CAREFULLY BEFORE FILING THE PETITION

FOR INFORMATION ON THE RULES OF PRACTICE IN JUSTICE COURTS, PLEASE CONSULT PART V OF THE TEXAS RULES OF CIVIL PROCEDURE, WHICH IS AVAILABLE ONLINE AND AT EACH COURT.

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. If you are unsure, please contact the Erath County Tax Office at 254-965-8630. 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 the 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 at least 3 days prior to filing your suit.
- The three day notice period can be a shorter/longer notice period if a written agreement.
- 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 fees (if employment of counsel is necessary and verified).
- You must also complete the JUSTICE COURT CIVIL CASE 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 \$116.00 if only one defendant. Service fee for each additional defendant will be \$75.00. 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 e-mail if provided.

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.

PETITION: EVICTION CASE

CASE NO. (court use only) _____

With suit for Rent

COURT DATE: _____

In the Justice Court, Precinct _____, _____ 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 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 _____, 20____ 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

DEFENDANT(S) INFORMATION (if known):

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

Address of Plaintiff (Landlord/Property Owner) or Agent

City State Zip

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

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

Instructions: The Servicemembers 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 the 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 plaintiff to file a bond in an amount approved by the court.

A person who makes or uses an affidavit under this Act knowing it to be false, may be fined or imprisoned or both. 50 U.S.C. App. 501 et seq. To obtain certificates of service or non-service under the Servicemembers' Civil Relief Act, you may access the public website: <https://www.dmdc.osd.mil/appj/scra/scraHome.do>. This website will provide the current active military status of an individual.

Military Status Affidavit

Case No. _____ § In the Justice Court of
§
Plaintiff : _____ §
vs. § Erath County, Texas
§
Defendant: _____ § Precinct 2, Place 1

BEFORE ME, on this day personally appeared, _____, who, under penalty of perjury, stated that the following facts are true:
I am the Plaintiff attorney of record for the Plaintiff in this proceeding.

- _____, Defendant, **is not** in military service.
- _____, Defendant, **is** in military service.

I know this because _____

I am unable to determine whether or not the Defendant is in military service.

Signed on _____

Signature
Printed Name: _____
Address: _____

Telephone: _____
Fax: _____
E-Mail Address: _____

THE STATE OF TEXAS §
COUNTY OF ERATH §

SWORN TO AND SUBSCRIBED BEFORE ME on _____

Clerk of the Court or Notary Public, State of Texas

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)

1. Contact information for person completing case information sheet:	2. Names of parties in case:										
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Name: _____</td> <td style="width: 50%; border: none;">Telephone: _____</td> </tr> <tr> <td style="border: none;">Address: _____</td> <td style="border: none;">Fax: _____</td> </tr> <tr> <td style="border: none;">City/State/Zip: _____</td> <td style="border: none;">State Bar No: _____</td> </tr> <tr> <td colspan="2" style="border: none; text-align: center;">Email: _____</td> </tr> <tr> <td colspan="2" style="border: none; text-align: center;">Signature: _____</td> </tr> </table>	Name: _____	Telephone: _____	Address: _____	Fax: _____	City/State/Zip: _____	State Bar No: _____	Email: _____		Signature: _____		<p style="text-align: center;">Plaintiff(s):</p> <p>_____</p> <p>_____</p> <p style="text-align: center;">Defendant(s):</p> <p>_____</p> <p>_____</p> <p style="text-align: center;">[Attach additional page as necessary to list all parties]</p>
Name: _____	Telephone: _____										
Address: _____	Fax: _____										
City/State/Zip: _____	State Bar No: _____										
Email: _____											
Signature: _____											

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.

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.