



## INSTRUCTIONS AND INFORMATION FOR FILING AN EVICTION

*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 \$10,000.00, excluding statutory interest and court costs but including attorney fees, if any. Eviction cases are governed by Rules 500-507 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.*

*Rules 500-510 of the Rules of Civil Procedure, which govern the rules of practice in justice courts, can be accessed at **banderacounty.org** under any of the Justice of the Peace links and they are available for examination at any of the Justice of the Peace offices during normal business hours.*

As in all suits you have a right to represent yourself or be represented by an attorney. See Rule 500.4, Part V of the Rules of Civil Procedure. It is always advisable to contact an attorney for legal advice. **Neither the Court nor court staff CAN advise you.**

Eviction cases in Justice Court require a landlord-tenant relationship, either expressed or implied. The petition in an eviction case must be **SWORN TO BY THE PLAINTIFF**, and if attorney fees are sought, a petition must contain a statement that attorney fees are being sought. Rule 510.3(a)(5), Rules of Civil Procedure.

You must give the tenant a "Notice To Vacate" prior to filing an eviction case and the time specified in the notice must have expired. See Chapter 24 of the Texas Property Code and Rule 500.5, Rules of Civil Procedure.

If there is a written lease signed by two (2) or more tenants, all of the tenants should be named and served with citation. If only one name appears on a written lease or the plaintiff can show in court that the agreement was with only one tenant, then naming one tenant and the statement "and all other occupants" may be sufficient.

An eviction case must be filed in the **County and Precinct** where the property is located. If the eviction is filed elsewhere, the judge must accept the filing but dismiss the case. The plaintiff will not be entitled to a refund of the filing fee, but will be refunded any service fees paid if the case is

dismissed before service is attempted. Rule 510.3 (b), Rules of Civil Procedure.

**Please be sure you have the correct Precinct before filing.**

Rural addressing 830-796-8343 or the Tax office 830-796-3731 can provide you information concerning in what precinct a property is located. Rule 510.3 (b) Rules of Civil Procedure.

A suit for rent may be joined with the eviction suit if the amount due is within the court's jurisdiction.

The court must adjudicate the right to actual possession and not title. Counterclaims and the joinder of suits against third parties are not permitted in eviction cases. A claim that is not asserted because of this rule can be brought in a separate suit in a court of proper jurisdiction. Rule 510.3(e), Rules of Civil Procedure.

Once your petition is filed with the court, a citation will be issued and served on the defendant. All parties will be notified of the time and date of trial. Be certain the court has all your contact information.

**It will be necessary for you to file a Justice Court Civil Case Information sheet with your petition.** This packet contains that sheet or they are available at the court office. Please bring this sheet to the court along with your completed petition.

The filing fee for an Eviction case is \$ \_\_\_\_\_ and a service fee of \$ \_\_\_\_\_, per defendant. For information concerning the cost of filing of any Writ or other process, contact the court office. If the Plaintiff is unable to pay the filing fees, a Statement of Inability to Pay may be filed with the court under Rule 502.3, Rules of Civil Procedures.

The judge may ask questions during any hearing or at trial in accordance with Rule 500.6, Rules of Civil Procedure. **However, the judge will not present your case for you or defend a case against you. It is the responsibility of each party to present his/her case.**

**Discovery:** Discovery is controlled by Rule 500.9, Rules of Civil Procedure and the Justice Court Standing Discovery Order, hereto attached.

**All fees must be paid before a document can be processed.**

**THESE INSTRUCTIONS AND INFORMATION IS A BRIEF SUMMARY OF THE LAWS AND PROCEDURES THAT APPLY TO AN EVICTION SUIT IN JUSTICE COURT. THEY ARE NOT INTENDED TO BE EXHAUSTIVE AND ANY QUESTIONS OR INTERPRETATION SHOULD BE BASED UPON YOUR OWN RESEARCH AND/OR THE ADVICE OF YOUR ATTORNEY.**

Attachments:

Standing Discovery Order  
Justice Court Civil Information Sheet



## **BANDERA COUNTY JUSTICE OF THE PEACE COURTS STANDING DISCOVERY POLICY**

Discovery in Justice Courts is governed by Rule 500.9 of the Rules of Civil Procedure, Part V. Pretrial Discovery is limited to that which the judge considers **reasonable and necessary**. Pretrial Discovery must be approved by the Court. Discovery may include but is not limited to the following:

- Interrogatories
- Requests for Production of Documents and Things
- Requests for Admissions
- Dispositions (the number and amount of time for each disposition may be limited)

Requests for Admissions **may not** be imbedded in the petitions. A party who violates Rule 500.9, Rules of Civil Procedure or this Standing Order may not rely on alleged Deemed Admission for any purpose, including connection with a Motion for Default Judgment or Summary Disposition.

The parties may apply for a modification of this Standing Discovery Order at any time for good cause shown.

# 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.

<p><b>1. Contact information for person completing case information sheet:</b></p> <p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p><b>2. Names of parties in case:</b></p> <p>Plaintiff(s): _____</p> <p>_____</p> <p>Defendant(s): _____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>
<p><b>3. Indicate case type, or identify the most important issue in the case (select only 1):</b></p>	
<p><input type="checkbox"/> <b>Debt Claim:</b> 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.</p>	<p><input type="checkbox"/> <b>Eviction:</b> 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.</p>
<p><input type="checkbox"/> <b>Repair and Remedy:</b> 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.</p>	<p><input type="checkbox"/> <b>Small Claims:</b> 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.</p>