



## JUDGE WILLIAM GOLDSBERRY

Justice of the Peace, Place 1, Precinct 1



### ***Eviction Cases***

*"The information contained herein is not exhaustive and is not intended to be legal advice."*

#### **Justice Court Civil Cases**

##### ***"I Just Want to Talk to the Judge....."***

The Code of Judicial Conduct prohibits the Judge from engaging in communication concerning the merits of a pending case or one that may be filed in the future.

Most people understand this when they consider how they would feel about the judge discussing their case with the other party without their knowledge or consent.

##### ***"But Your Clerk Said..."***

The Code also prohibits a Judge or Court Staff from giving legal advice.

##### ***"Do I need a Lawyer?"***

Legal representation is not required. Legal representation may be desired to safeguard your rights and interests.

# Eviction Cases

**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, excluding statutory interest and court costs but including attorney fees, if any.**

## Notice to Vacate

If the occupant is a tenant under a written lease or oral rental agreement, the landlord must give at least three days' written notice to vacate the premises before the landlord files an eviction, unless the parties have contracted for a shorter or longer period of time in a written lease or agreement.

The notice to vacate shall be given in person, by mail, or by affixing the notice to the inside of the main entry door and must be unconditional. Notice by mail may be by regular mail, registered mail, or by certified mail, return receipt requested, to the premises in question.

If the dwelling has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises, the landlord may securely affix the notice on the outside of the main entry door.

Texas Property Code Sec. 24.005

## Filing Petition with the Court

Eviction suits must be filed in the precinct and county where the property is located. Rule 510.3(b) Filing fee for an eviction case is

\$46.00. On filing the petition, the plaintiff must pay the appropriate filing fee and \$100.00 service fee in Ochiltree County for each defendant.

If the eviction is based on a written residential lease, the plaintiff must name as defendant(s) all tenants obligated under the lease residing at the premises whom the plaintiff seeks to evict. Rule 510.3 (c)

No judgment or writ of possession may issue or be executed against a tenant obligated under a lease and residing at the premises who is not named in the petition. Rule 510.3 (c)

Upon filing, the court will immediately issue a citation and give to the Constable for service. Trial must be held 10-21 days from the date the petition is filed. Rule 510.4(a)(10)

Trial can't be held less than 6 days after service. Rule 510.7 (a)

## At Trial

The plaintiff is responsible for proving his or her right to possession of the premises and, if a claim for unpaid rent has been made, the amount of unpaid rent. Proof may include a copy of the lease, a copy of the notice to vacate, and payment records.

The amount of pure rent due through the date of trial will need to be calculated (*no utilities or late charges are allowed in claims for unpaid rent.*)

Rule 510.3 (d)

## Judgment

This court must adjudicate the right to actual possession and not title.

Rule 510.3 (e)

## Writ of Possession

A writ of possession may issue on the 6<sup>th</sup> day after judgment provided an appeal is not properly filed. A writ may not issue more than 60 days after a judgment is signed unless good cause is shown. A writ may not be executed after the 90<sup>th</sup> day after a judgment for possession is signed. Rule 510.8 (d) (1)(2)(3)

## Appeal

A party may appeal a judgment in an eviction case by filing a bond, making a cash deposit, or filing a sworn statement of inability to pay. This must be done within 5 days after judgment is signed. The Judge will set the amount of bond or cash deposit. The bond/cash deposit must be payable to the appellee and must be conditioned on the appellant's prosecution of its appeal to effect and payment of any judgment and all costs rendered against it on appeal. Rule 510.9 (a) (b)

An appellant who can't furnish a bond or pay a cash deposit in the amount required may instead file a **Sworn Statement of Inability to Pay (SSIP)**. Rule 510.9(c) (1)

The statement may be contested within 5 days after the opposing party receives notice the statement was filed. Rule 510.9 (2)

The Court must provide to the defendant a written notice at the time the SSIP is filed, stating that rent is required to be posted into the justice court registry, the method by which deposit is required, the day the deposit is required which must be within 5 days of the date the SSIP is filed and a statement that failure to pay the required amount may result in the court issuing a writ of possession without a hearing.

Rule 510.9 (5) (A) (i) (ii) (iii)(iv)

## Demand for Jury

Demand for Jury can be made by either party, must be made at least 3 days before trial and requires a jury fee of \$22 or by filing a sworn statement of inability to pay the jury fee. Rule 510.7(b)

No motion for new trial may be filed in an eviction case. Rule 510.8 (e)

No counterclaims are permitted in an eviction case.

Rule 510.3(e)



## **COURTROOM POLICY**

Electronic devices, cell phones, pagers, etc. *must be* **TURNED OFF.**  
All packages, purses, briefcases, etc. are subject to search by bailiff at any time.  
Individuals causing distractions or disruptions are subject to removal from the courtroom.

## **PROPER ATTIRE REQUIRED**

Shorts are permitted for juveniles or if part of a company's dress code.  
No: Cut offs, swimsuits, exposed midriffs, muscle shirts.  
No sagging pants, tuck in long shirts.  
Gentlemen remove hats or caps.  
Shoes are required.

## **DRESS CODE WILL BE STRICTLY ENFORCED**

### **Ochiltree County Precinct 1**

511 N. Main Perryton, Texas 79070

Phone: 806-435-8020 Fax: 806-435-2081

**NO FOOD OR DRINKS ALLOWED IN THE COURTROOM**

# JUSTICE COURT CIVIL CASE INFORMATION SHEET (2/2020)

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED \_\_\_\_\_ Vs \_\_\_\_\_

(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:												
<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;">Email: _____</td> </tr> <tr> <td colspan="2" style="border: none;">Signature: _____</td> </tr> <tr> <td colspan="2" style="border: none;">                     Plaintiff requests trial to be set as soon as possible (please circle)      yes                 </td> </tr> </table>	Name: _____	Telephone: _____	Address: _____	Fax: _____	City/State/Zip: _____	State Bar No: _____	Email: _____		Signature: _____		Plaintiff requests trial to be set as soon as possible (please circle)      yes		Plaintiff(s): _____ _____ Defendant(s): _____ _____ [Attach additional page as necessary to list all parties]
Name: _____	Telephone: _____												
Address: _____	Fax: _____												
City/State/Zip: _____	State Bar No: _____												
Email: _____													
Signature: _____													
Plaintiff requests trial to be set as soon as possible (please circle)      yes													
3. Indicate case type, or identify the most important issue in the case (select only 1):													
<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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	<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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.												
<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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	<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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.												

**Justice of the Peace**  
**Judge William Goldsberry**  
 511 S. Main St.  
 Perryton, Texas 79070  
 Phone (806)435-8020 Fax: (806) 435-2081  
 Email: [justiceofthepeace@ochiltree.net](mailto:justiceofthepeace@ochiltree.net)

**PETITION FOR EVICTION**

Court Date \_\_\_\_\_ @ 10:00am

I hereby acknowledge the court date and understand if the Plaintiff fails to appear the case may be Dismissed for want of Prosecution.

X \_\_\_\_\_ (initial)

Case No.: \_\_\_\_\_

Plaintiff(s): \_\_\_\_\_ Agent or Attorney: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

**VS**

Defendant(s): \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

Address: \_\_\_\_\_

**TO THE HONORABLE JUDGE OF THE COURT:**

1. This suit is brought to regain possession of the premises located at \_\_\_\_\_, a property located within the boundaries of the Justice of the Peace, Pct. 1, Ochiltree County, Texas.
2. **Service of Citation:** Other addresses where the defendant(s) may be served in Ochiltree County are: \_\_\_\_\_
3. The owner/landlord claims they should regain possession of the premises due to (check one):
  - Non-payment of rent**
  - Lease violations** (other than non-payment of rent), as follows: \_\_\_\_\_
  - Holdover at end of term**
4. The tenant rented this property on or about: \_\_\_\_\_ and still maintains possession of the property. The Lease is (Check one):  **written**  **oral**
5. The above-named defendant:
  - is not in the military service on active duty, and is not a dependent of a service member on active duty.
  - is in the military service on active duty.
  - I have been unable to determine whether or not the defendant is in the military service on active duty.
6. The rent is \$\_\_\_\_\_ per month and is due the \_\_\_\_ day of each month.
7. **Notice to Vacate:** Written notice to vacate and demand for possession was given on \_\_\_\_\_ in accordance to Chapter 24.005 of the Texas Property Code by the following manner:  **Certified Mail**  
 **Regular mail**  **Attached to inside of main entry door**  **Attached to outside of door and mailed**

**THIS COURT IS ASKED TO EVICT THE TENANT AND ORDER TENANT TO:**

- Pay rent owed in the amount of \$\_\_\_\_\_.
- Pay court costs.
- Pay reasonable attorney's fees of \$\_\_\_\_\_.

*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.*

\_\_\_\_\_  
*Plaintiff*

\_\_\_\_\_  
*Plaintiff's Agent or Attorney*

Said Plaintiff (or agent or attorney), being duly sworn by me, the undersigned authority, upon oath says that the facts as stated in the above instrument are, within the knowledge of said Affiant, true and correct.

**Subscribed and Sworn** before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
*Clerk of the Court or Notary Public*

CAUSE NO. \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF

IN THE JUSTICE COURT

VS.

PLACE 1, PRECINCT 1

\_\_\_\_\_  
DEFENDANT

OCHILTREE COUNTY, TEXAS

**TEXAS SERVICEMEMBERS CIVIL RELIEF ACT AFFIDAVIT**

STATE OF TEXAS  
COUNTY OF OCHILTREE

**BEFORE ME, the undersigned authority personally appeared the below-named affiant, who upon oath deposed and stated:**

I am over the age of eighteen (18) and am competent to make this affidavit. I am the

- Plaintiff
- Plaintiff's agent

in the above-entitled and numbered matter.

I have

- made a personal investigation
- personally reviewed the business records of the Plaintiff

As a result of the investigation or review, it is my belief that the above-named

- defendant is not in the military service on active duty, and is not a dependent of a service member on active duty
- is in the military service on active duty
- I have been unable to determine whether or not the defendant is in the military service on active duty

I understand that any false statements in this document are made under penalty of perjury, and that making a false statement is a violation of Federal Law and is subject to both fine and imprisonment.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Affiant

Subscribed and sworn to bore me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.



\_\_\_\_\_  
 Clerk of the Court/  Notary Public

CAUSE NO. \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF

v.

\_\_\_\_\_  
DEFENDANT

§  
§  
§  
§  
§  
§

IN THE JUSTICE COURT

PRECINCT 1

OCHILTREE COUNTY, TEXAS

**VERIFICATION OF COMPLIANCE**  
**WITH SECTIONS 4023 AND 4024 OF THE CARES ACT**

My name is: \_\_\_\_\_.

I am (*check one*)  **the Plaintiff** or  **an authorized agent of the Plaintiff** in the eviction case described at the top of this page. I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

**1. Verification:**

a. Plaintiff is seeking to recover possession of the following property:

\_\_\_\_\_  
*Name of Apartment Complex (if any)*

\_\_\_\_\_  
*Street Address & Unit No. (if any)*

\_\_\_\_\_  
*City*

\_\_\_\_\_  
*County*

\_\_\_\_\_  
*State*

\_\_\_\_\_  
*ZIP*

**b.** I verify that this property (select the one that applies):  **is**  **is not**

a “covered dwelling” as defined by Section 4024(a)(1) of the CARES Act. The facts on which I base my conclusion are as follows:

*(Please identify whether the property has a federally backed mortgage loan or federally backed multifamily mortgage loan, and if not, which database or information you have used to determine that fact.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(If the property does not have a federally backed mortgage loan or federally backed multifamily mortgage loan, please state whether or not: (1) the property is a Low Income Housing Tax Credit (LIHTC) property, (2) the property is federally subsidized under any HUD program, or (3) the property leases to persons with Section 8 vouchers.)*

c. I verify that plaintiff (select the one that applies):  is  is not  
a "multifamily borrower" currently under forbearance under Section 4023 of the CARES Act.

d. I verify that plaintiff (select the one that applies):

**has** provided the defendant with 30 days' notice to vacate as required under Section 4024(c) and 4023(e) of the CARES Act.

**has not** provided the 30 days' notice, because the property is not a "covered dwelling."

**2. Declaration or Notary:** Complete only one of the two following sections:

a. **Declaration:** I declare under penalty of perjury that everything in this verification is true and correct.

My name is : \_\_\_\_\_  
*First Middle Last*

My birthdate is: \_\_\_\_/\_\_\_\_/\_\_\_\_  
*Month Day Year*

My address is:

\_\_\_\_\_  
*Street Address & Unit No. (if any) City County State ZIP*

Signed on \_\_\_\_/\_\_\_\_/\_\_\_\_ in Ochiltree County, Texas.  
*Month Day Year*

\_\_\_\_\_  
**Your Signature**

**OR**

b. **Notary:** I declare under penalty of perjury that everything in this verification is true and correct

\_\_\_\_\_  
Your Printed Name

\_\_\_\_\_  
**Your Signature** (*sign only before a notary*)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
CLERK OF THE COURT OR NOTARY



CARES Act  
Public Law 116-136

**SEC. 4023. FORBEARANCE OF RESIDENTIAL MORTGAGE LOAN PAYMENTS FOR MULTIFAMILY PROPERTIES WITH FEDERALLY BACKED LOANS.**

(a) **In General.**—During the covered period, a multifamily borrower with a Federally backed multifamily mortgage loan experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency may request a forbearance under the terms set forth in this section.

(b) **Request For Relief.**—A multifamily borrower with a Federally backed multifamily mortgage loan that was current on its payments as of February 1, 2020, may submit an oral or written request for forbearance under subsection (a) to the borrower's servicer affirming that the multifamily borrower is experiencing a financial hardship during the COVID-19 emergency.

(c) **Forbearance Period.**—

(1) **IN GENERAL.**—Upon receipt of an oral or written request for forbearance from a multifamily borrower, a servicer shall—

(A) document the financial hardship;

(B) provide the forbearance for up to 30 days; and

(C) extend the forbearance for up to 2 additional 30 day periods upon the request of the borrower provided that, the borrower's request for an extension is made during the covered period, and, at least 15 days prior to the end of the forbearance period described under subparagraph (B).

(2) **RIGHT TO DISCONTINUE.**—A multifamily borrower shall have the option to discontinue the forbearance at any time.

(d) **Renter Protections During Forbearance Period.**—A multifamily borrower that receives a forbearance under this section may not, for the duration of the forbearance—

(1) evict or initiate the eviction of a tenant from a dwelling unit located in or on the applicable property solely for nonpayment of rent or other fees or charges; or

(2) charge any late fees, penalties, or other charges to a tenant described in paragraph (1) for late payment of rent.

(e) **Notice.**—A multifamily borrower that receives a forbearance under this section—

(1) may not require a tenant to vacate a dwelling unit located in or on the applicable property before the date that is 30 days after the date on which the borrower provides the tenant with a notice to vacate; and

(2) may not issue a notice to vacate under paragraph (1) until after the expiration of the forbearance.

(f) **Definitions.**—In this section:

(1) **APPLICABLE PROPERTY.**—The term "applicable property", with respect to a Federally backed multifamily mortgage loan, means the residential multifamily property against which the mortgage loan is secured by a lien.

(2) **FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.**—The term "Federally backed multifamily mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(3) **MULTIFAMILY BORROWER.**—the term "multifamily borrower" means a borrower of a residential mortgage loan that is secured by a lien against a property comprising 5 or more dwelling units.

(4) **COVID-19 EMERGENCY.**—The term "COVID-19 emergency" means the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act ([50 U.S.C. 1601](#) et seq.).

(5) **COVERED PERIOD.**—The term "covered period" means the period beginning on the date of enactment of this Act and ending on the sooner of—

(A) the termination date of the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act ([50 U.S.C. 1601](#) et seq.); or

(B) December 31, 2020.

**Sec. 4024 TEMPORARY MORATORIUM ON EVICTION FILINGS.**

(a) **DEFINITIONS.**—In this section:

(1) **COVERED DWELLING.**— The term "covered dwelling" means a dwelling that—

(A) is occupied by a tenant—

(i) pursuant to a residential lease; or

(ii) without a lease or with a lease terminable under State law; and

(B) is on or in a covered property.

(2) **COVERED PROPERTY.**—The term "covered property" means any property that—

(A) participates in—

(i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a))); or

(ii) the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r); or  
(B) has a—

(i) Federally backed mortgage loan; or (ii) Federally backed multifamily mortgage loan.

(3) DWELLING.—The term “dwelling”—

(A) has the meaning given the term in section 802 of the Fair Housing Act (42 U.S.C. 3602); and (B) includes houses and dwellings described in section 803(b) of such Act (42 U.S.C. 3603(b)).

(4) FEDERALLY BACKED MORTGAGE LOAN.—The term “Federally backed mortgage loan” includes any loan (other than temporary financing such as a construction loan) that —

(A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5) FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.—The term “Federally backed multifamily mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(b) MORATORIUM.—During the 120-day period beginning on the date of enactment of this Act, the lessor of a covered dwelling may not-

(1) make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession of the covered dwelling from the tenant for nonpayment of rent or other fees or charges; or

(2) charge fees, penalties, or other charges to the tenant related to such nonpayment of rent.

(c) NOTICE.—The lessor of a covered dwelling unit-

(1) may not require the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate; and

(2) may not issue a notice to vacate under paragraph (1) until after the expiration of the period described in subsection (b).