

Information or instructions: ~~Petition to evict a tenant from a lease forcible detainer action~~

PREVIEW

1. The petition in the form that follows is filed to evict a tenant who is unlawfully occupying the premises.
2. The petition assumes the landlord and tenant had a written lease agreement, that the tenant failed to pay the rent, and that the landlord filed the proper eviction notices, including the required demand letter, so as to entitle landlord reimbursement of attorney fees.
3. On trial in the justice of the peace court, the tenant won. Thereafter, the landlord filed a petition in the county court seeking a hearing de novo on the claim for forcible entry and detainer.
4. **PLEASE DO NOT COPY** Complaint for forcible entry and detainer must be sworn to pursuant to TRCP 739, and must state facts that satisfy one or more of the statutory requirements for possession pursuant to TRCP 741.
5. It must describe the lands, tenements, or possessions claimed.
6. In addition, the complaint must conclude with a prayer for restitution and any other relief, such as past due rent, to which plaintiff is entitled.
7. The case is docketed and tried in the same way as other cases. The only difference is that it commences in the justice of the peace court and the appeal is to the county court.
8. See the following Texas Rules of Civil Procedure for statutory authority applicable to forcible entry and detainer actions:

THIS DOCUMENT

- Rule 738-Suing for rent;
- Rule 739-Citation;
- Rule 740-Possession by complainant;
- Rule 741-Requisites of complaint;
- Rule 742-Service of citation;
- Rule 743-Docket;
- Rule 744-Demand of jury;
- Rule 745-Trial postponed;
- Rule 746-Only issue;
- Rule 747-Trial;
- Rule 748-Judgment;
- Rule 749-Appeal;
- Rule 749A-Pauper's affidavit;
- Rule 749B-Pauper's affidavit in nonpayment of rent appeals;
- Rule 749C-Appeal perfected;
- Rule 750-Appeal bond;
- Rule 751-Interim writ;
- Rule 752-Damages;

THANK YOU

LegalFormsForTexas.Com

Rule 753-Judgment by default;
Rule 755-Writ of restitution.

PREVIEW

Form: Complaint for forcible detainer

CAUSE NUMBER _____

[Name],
PLAINTIFF

IN THE [Type of Court] COURT

[Court number]

vs.

[Name],
DEFENDANT

OF [NAME], COUNTY, TEXAS

PLEASE DO NOT COPY

COMPLAINT FOR FORCIBLE DETAINER

Plaintiff [Name] ("Plaintiff") files this Original Petition complaining of [Name]

("Defendant") and for cause of action would respectfully show this Court as follows:

1. DISCOVERY CONTROL PLAN & PARTIES

1.1 Plaintiff requests a Level [1, 2 or 3] discovery plan.

1.2 Plaintiff is [Name], an individual who resides in (or is the type of entity such as corporation etc. who does business in) [city], County, Texas.

1.3 Defendant, [select the appropriate clause]

Individual Defendant:

[Name], is an individual who resides in [city], [County], Texas and may be served with Citation at [his or her] residence, located at [Address], or at [his or her] business, located at [Address].

Texas Corporate Defendant:

THANK YOU

Defendant [Name] is a Texas corporation purportedly duly organized under the laws of Texas, and may be served with process by serving its registered agent, [Name], at the corporation's registered address: [Address].

LegalFormsForTexas.Com
Foreign Corporation Defendant- Long Arm Statute Service

Defendant [Name] is a foreign corporation, nonresident of Texas, which has no Certificate of Authority for doing business in the State of Texas.

PREVIEW

Although [Name] engages in business in Texas, no agent has been designated for service of citation, and it has no regular place of business in Texas.

As set forth in this petition, [Name] [described business done in Texas]. Because this lawsuit arises out of [Name]'s purposeful acts in Texas, the assumption of jurisdiction by this Court does not offend traditional notions of fair play and substantial justice. Pursuant to Tex. Rev. Civ. Stat. Ann.

art. 17.44(a) & (b) (Vernon 1987), service of citation on [Name] may be accomplished by serving the Secretary of State of Texas who will forward such citation by certified mail, return receipt requested, to [Name] at [Name's mailing address use registered agent at home state].

PLEASE DO NOT COPY

Foreign Individual Defendant- Long Arm Statute Service

Defendant [Name] is a nonresident who engages in business in Texas. This defendant does not maintain a regular place of business in Texas or a designated agent for service of process.

This lawsuit, in which [Name] is a party, arises out of the business done by [Name] in Texas. For these reasons, citation should be served on the Secretary of State of Texas under Tex. Civ. Prac. & Rem Code §17.44(b) (Vernon 1987).

A copy of the citation and petition should be mailed by the Secretary of State to this defendant at [Name's mailing address].

Limited Partnership Defendant

Defendant [Name] is a limited partnership chartered and existing under the laws of [state: i.e. Texas], and may be served with process by serving one of its general partners, [Name] at [Address] and may be served by serving another general partner, [Name] at [Address].

THIS DOCUMENT

THANK YOU

LegalFormsForTexas.Com

2.1 At all times material to the cause of action detailed below, both Plaintiff and Defendant resided in [city], County, Texas. Furthermore, the actions complained of below arose in whole or in part in [city], County, Texas.

3. FACTUAL BACKGROUND

3.1 [State the facts]

[For example]

3.1 On [Date], Plaintiff purchased and acquired legal title to the following described property which is the subject of this lawsuit, to-wit: [description of property].

3.2 On [Date], Defendant signed a Tenancy Agreement in which [he or she] agreed to pay to Plaintiff rental in monthly installments of \$[Amount], each month on or before the day of each month. Defendant agreed to vacate and surrender the premises on [Number of Days] days' notice from Plaintiff. A true and correct copy of the Tenancy Agreement is attached to this Petition as Exhibit "A" and incorporated by reference as if fully copied and set forth at length.

3.3 On [Date], Plaintiff notified Defendant in writing that since Defendant was delinquent in the rent payments to Plaintiff, Defendant must vacate the premises. Defendant ignored Plaintiff's Notice of Eviction and failed and refused and still fails and refuses to pay the rent that was and still is owed on the property.

4.

4.1 Defendant has failed and refused and continues to refuse to pay the rental for the months of [specify months]. Plaintiff is entitled to receive rent until Defendant vacates the premises described above.

5.

LegalFormsForTexas.Com

5.1 Plaintiff is suing on a written contract and is entitled to attorney fees under Section 38.0.1 et seq. of the Texas Civil Practice and Remedies Code. Plaintiff has been required to employ the undersigned attorney to prepare and prosecute this suit. Plaintiff is entitled to recover attorney fees that are reasonable in relation to the amount of work expended. Plaintiff alleges this amount to be approximately \$[Amount], or such sum as may be proved at trial.

PREVIEW

6.

6.1 On _____, Plaintiff presented [his or her] case for a forcible detainer action in Justice of Peace Court in [city], Texas. Defendant presented various evidence regarding title and consumer claims but failed to present any evidence regarding payment of rent. Defendant did not dispute the lease found in Exhibit "A".

PLEASE DO NOT COPY

6.2 Plaintiff did not prevail in the action, and therefore petitions this Court for a Trial De Novo on the merits of the action complained of in this Petition.

6.3 Plaintiff requests that Defendant be cited to appear and answer, and that on final trial:

THIS DOCUMENT

1. Defendant be adjudged guilty of forcible detainer.
2. Restitution of the property described above be made to Plaintiff.
3. Plaintiff recover from Defendant rents due in the amount of \$ _____.
4. Plaintiff recover from Defendant damages and costs.
5. Plaintiff recover attorney fees of \$[Amount], which is reasonable in relation to the amount of work expended.
6. Plaintiff recover such other and further relief to which plaintiff may be justly entitled.

THANK YOU

LegalFormsForTexas.Com

Respectfully Submitted,

PREVIEW _____
[Law Firm Name]

By _____

[Attorney's Name]

Attorney for Plaintiff

[Attorney's Address]

[Telephone Number]

[Facsimile Number]

[Bar Card Number]

PLEASE DO NOT COPY

[If the pleading is an amended petition, insert a Certificate of Service]

THIS DOCUMENT

THANK YOU

LegalFormsForTexas.Com