



## EVICTIION INFORMATION

The information contained in this packet is being provided by Hunt County Precinct 2 Justice of the Peace and Constable's Office located in Commerce, Texas. We hope this information helps you with filing your case with our court. As stated in the packet, we cannot give legal advice but can give information on procedures of filing your case.

Please feel free to contact our Clerk, Debbie Driggers, with any procedural questions you may have.

Our contact information is below:

**Judge Kerry L. Crews, Justice of the Peace**  
**Precinct 2, Place 1, Hunt County, Texas**  
**100 Kings Plaza, Suite F – P. O. Box 411,**  
**Commerce, Texas 75429**  
**903.886. 6727 \* Fax 903.886.8387**

**Constable Wayne "Doc" Pierce**  
**Precinct 2, Place 1, Hunt County, Texas**  
**100 Kings Plaza, Suite F – P. O. Box 411,**  
**Commerce, Texas 75429**  
**903.886.7937 \* Fax 903.886.8387**

**Court Clerk – Debbie Driggers**



## EVICTON INSTRUCTIONS (PLEASE READ CAREFULLY)

You are strongly encouraged to read the Rules of Civil Procedure. There is important information in the rules that apply to eviction cases.

1. **Evictions must be filed in the proper Justice of the Peace Court.** Cash, checks and money orders are accepted, however, cash must be in the exact amount. Your property should be properly marked with the physical address assigned by the 911 emergency address system or the appraisal district. If your property is not clearly marked and the Constable is unable to locate it then the eviction citation could be returned unserved, and you will have to start over. Location number can be posted by numbers on the building property or by numbers located on a sign posted in front of the property.

**Chapter 24 of the Texas Property Code requires that an eviction suit MUST be filed in the county and precinct where the property is located. If an eviction suit is not filed in the appropriate precinct, the case will be dismissed. You WILL NOT be entitled to a refund of filing fees.**

2. **By law, you must give a NOTICE TO VACATE before you can file an EVICTION SUIT.** The landlord must give the tenant at least 3 days written notice to vacate before filing this eviction, unless the lease is signed by both parties stating otherwise. The NOTICE TO VACATE must be in writing and comply with section 24.005 of the Texas Property Code, which is found at <http://www.statutes.legis.state.tx.us/Search.aspx>. A defective NOTICE TO VACATE can result in DISMISSAL of your eviction.
3. **Delivery of the notice must be accomplished by one of the following methods:**
  - a. Handed to a tenant in person. (Or anyone living at the premises that is at least 16 years old)
  - b. Mailed to the tenant. (If mailed the landlord must wait an additional (2) two days to allow for delivery of mail before filing for eviction.)
  - c. Attached to the inside of the main entry door.
4. **The military SCRA form is REQUIRED WHEN FILING A CASE:** There is NEVER a fee for using this website: Official Department of Defense Service Members Civil Relief Act (website): <https://scra.dmdc.osd.mil>
5. **MOBILE HOME CASES:** If you are seeking an eviction based on **late rent payment** for a mobile home lot (tenant owns mobile home and you lease them the lot), you are required to give the tenant a ten-day NOTICE TO CURE before you can file an eviction (SEC. 94.206, Texas Property Code). Without the NOTICE TO CURE, your case will be dismissed. If they do not cure the problem after the ten-day noticed, you then give them a three day NOTICE TO VACATE. Texas Law contains specific rules regarding Mobile Homes. You can locate these laws on the Texas Property Code website, <http://statutes.legis.state.tx.us/Docs/PR/htm/PR.94.htm>
6. Court cost for filing an eviction on one tenant is **\$121.00**. Section 510.3 of the NEW Texas Rules of Civil Procedure states "The plaintiff" must name as defendants all tenants obligated under the lease residing at the premises. You can ONLY get a judgment against the defendant served. If you wish to have a judgment against two parties, then you MUST pay for service and have both parties served. This is an additional **\$75.00 per defendant**.
7. **ATTORNEY'S FEES:** to be eligible to recover attorney's fees in an eviction suit, a notice to vacate must be served by a process service, personally with a witness, or by return receipt requested certified mail ten days prior to the date the suit is filed.
8. **WHO MAY FILE:** The owner or the owner's agent may file any type of forcible detainer suit, and he may represent the owner in the hearing.
9. **JOINING A SUIT FOR RENT:** A suit for rent may be joined with the eviction suit, if the amount due is within the jurisdiction of this court (\$10,000.00). Any damages, late charges, utilities, or other charges may not be included in this action; HOWEVER, the owner or the owners' attorney may file suit for these amounts in a separate action in small claims court.



10. **PROCEDURES AFTER FILING:** At the time the suit is filed, a hearing date will be set at least 10 days out but no more than 21 days from the filing date. A citation will be issued to the Constable's Office to be served on the tenant(s) giving them the date and time of the hearing.
11. **THE HEARING:** You or your representative are required to appear personally for the hearing. Proper representation is essential (As per item #7). At the court hearing, both sides will have the right to present their side of the case, including witnesses, receipts, cancelled checks, photographs, and all other evidence. You will need to bring all evidence with you to Court. The burden of proof lies with you as the plaintiff. You must show the Court good and sufficient evidence proving your right to regain possession of the property. You must still prove your case even if the defendant fails to appear.
12. **JUDGEMENT:** At the hearing, a judgment will be rendered for either the plaintiff or the defendant. A judgment for the plaintiff may be for all or part of the initial claim. If you are awarded a judgment for possession of the premises and/or any back rent owed, there is a 6 day appeal period in which the defendant may appeal the decision to the County Court. If the defendant has not appealed the case at the end of the appeal period, the judgment becomes final.

Upon final judgment, you may then file for a Writ of Possession if the defendant still has not vacated the premises. A writ of possession has a court fee of **\$105.00**. This is a writ that authorizes the Constable to supervise while the plaintiff removes the property from the premises. You may wish to contact the Constable at 903.886.7937 for more information on writs of possession.

**Every Eviction Suit must include these documents:**

- Sworn Complaint for Eviction (Petition)
- Service Members Civil Relief Act Affidavit
- Justice Court Civil Case Information Sheet

## **THIS OFFICE CANNOT GIVE ANY LEGAL ADVICE**

**If you have legal questions, you must consult with an attorney or contact legal aid at 800.906.3045.**

Website for legal help or to look for an attorney: **texasbar.com**

Under "helpful resources" click on the "free consumer legal information".

### **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 \$100.00 and a \$5.00 filing fee for a total of \$105.00. After fees are paid in full, the Writ will be turned over to the appropriate Constable or Sheriff for execution of service. You may contact the Constable by phone 903.886.7937 or email [wpierce@huntcounty.net](mailto:wpierce@huntcounty.net) for any questions concerning the Writ after it's been posted.

**A \$40.00 PER HOUR OR PART OF AN HOUR FEE WILL BE CHARGED (PER OFFICER) AFTER THE FIRST 2 HOURS. OFFICER DOES NOT PHYSICALLY REMOVE ANY PROPERTY FROM THE PREMISES. THE LANDLORD IS RESPONSIBLE FOR REMOVAL.**

\_\_\_\_\_  
DATE

NOTICE TO VACATE

TO: \_\_\_\_\_

YOU ARE HEREBY NOTIFIED THAT I DEMAND OF YOU, WITHIN  
\_\_\_\_\_ DAYS FROM THE ABOVE DATE, POSSESSION OF THE  
DWELLING HOUSE AND ADJACENT PREMISES LOCATED AT  
\_\_\_\_\_ WITHIN, JUSTICE OF THE PEACE PCT. 2  
HUNT COUNTY, TEXAS, NOW OCCUPIED BY YOU, AND UNLESS MY DEMAND BE  
COMPLIED WITH, I SHALL PROCEED AGAINST YOU AS THE LAW DIRECTS.

REASONS FOR EVICTION:

- \_\_\_\_\_ 1. NON-PAYMENT OF RENT FOR THE MONTHS OF \_\_\_\_\_  
\_\_\_\_\_ 2. DAMAGE OR UNREASONABLE WEAR AND TEAR TO PREMISES.  
\_\_\_\_\_ 3. OTHER \_\_\_\_\_

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
STREET ADDRESS

\_\_\_\_\_  
CITY

\_\_\_\_\_ I CERTIFY THAT THE ABOVE NOTICE WAS DELIVERED BY ME IN  
PERSON TO:

\_\_\_\_\_  
AT THE ABOVE ADDRESS:

\_\_\_\_\_ I CERTIFY THAT THE ABOVE NOTICE WAS MAILED TO THE  
ABOVE NAMED PERSON OR PERSONS BY PLACING THE SAME IN THE UNITED  
STATES MAIL, PROPERLY ADDRESSED AND POSTAGE AFFIXED TOGETHER WITH  
AN ADDITIONAL COPY MAILED BY CERTIFIED MAIL RETURN RECEIPT  
REQUESTED ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
OWNER



**PETITION: EVICTION CASE**

CASE No. (Court Use Only): \_\_\_\_\_

☐ With suit for Rent

Court Date: \_\_\_\_\_

In the Justice Court, Precinct 2, Place 1, Hunt County, Texas

PLAINTIFF: \_\_\_\_\_  
(Landlord/Property Name)

Vs.

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

Rental Subsidy (if any): \_\_\_\_\_

Tenant's Portion: \_\_\_\_\_

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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- ☐ **SERVICE OF CITATION:** Service is requested on defendants by personal service at home or work or by alternative services as allowed by the Texas Justice Court Rules of Court. Other addresses where the defendant(s) may be served are: \_\_\_\_\_
- ☐ **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: \$ \_\_\_\_\_
- ☐ **OTHER GROUNDS FOR EVICTION/LEASE VIOLATIONS:** Lease violation (if other than non-paid rent – list lease violations): \_\_\_\_\_
- ☐ **HOLD OVER 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 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- ☐ **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. \_\_\_\_\_
- ☐ **ATTORNEY FEES:** Plaintiff WILL / WILL NOT be seeking applicable attorney's fees. Attorney's name, address, phone number and fax numbers are: \_\_\_\_\_
- ☐ **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) proper notices as required by the Texas Justice Court Rules are given to the Defendant(s).

**REQUEST FOR JUDGEMENT:** Plaintiff prays that defendant(s) be served with citation and that plaintiff have a 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 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 # of Plaintiff (Landlord/Property Owner) or Agent

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

\_\_\_\_\_  
Clerk of the Justice Court or Notary





## Judge Kerry L. Crews

Justice of the Peace - Hunt County, Precinct 2, Place 1  
100 Kings Plaza, Suite F \* P.O Box 411,  
Commerce, Texas 75429  
903.886.6726 \* Fax 903.886.8387

### CIVIL PROCESS ADDITIONAL INFORMATION

In order to assist our Constable in timely serving of civil papers, we ask that you complete the following information:

#### PLAINTIFF'S INFORMATION

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NUMBERS: WORK: \_\_\_\_\_ HOME: \_\_\_\_\_

DEFENDANT'S NAME: \_\_\_\_\_

DEFENDANT'S ADDRESS: \_\_\_\_\_

DEFENDANT'S PHONE NUMBERS: WORK: \_\_\_\_\_ HOME: \_\_\_\_\_

DEFENDANT'S PLACE OF EMPLOYMENT: \_\_\_\_\_ HOURS: \_\_\_\_\_

ANY OTHER INFORMATION THAT WOULD HELP OUR CONSTABLE SERVE YOUR PAPERS: \_\_\_\_\_

IN ORDER TO EXPEDITE SERVICE AND PROVIDE FOR THE SAFETY OF OUR CONSTABLE, WE ASK THAT YOU ANSWER THE FOLLOWING QUESTIONS TO THE BEST OF YOUR ABILITY.

DURING YOUR INTERACTION WITH THE DEFENDANT:

1. HAVE YOU WITNESSED ANY "ABNORMAL" BEHAVIOR?
2. HAVE YOU KNOWN, OR KNOWN OF THE DEFENDANT BEING VIOLENT WITH ANYONE?
3. HAVE YOU BEEN VERBALLY OR PHYSICALLY ASSAULTED BY THE DEFENDANT?
4. DO YOU KNOW OF AN OCCASION WHERE THE DEFENDANT HAS A WEAPON, OR HAS BRANDISHED A WEAPON OF ANY KIND?
5. DOES DEFENDANT HAVE ANY DOGS KNOWN TO BE AGGRESSIVE?
6. ARE YOU AWARE OF ANY MENTAL OR EMOTIONAL ISSUES THAT THE DEFENDANT MAY HAVE?
7. ARE YOU AWARE OF ANY POLICE RELATED CALLS REGARDING THE DEFENDANT?
8. ARE THERE ANY OTHER ISSUES YOU THINK MIGHT BE IMPORTANT FOR THE CONSTABLE TO KNOW?

CAUSE #: \_\_\_\_\_

STATE OF TEXAS

§

IN THE JUSTICE COURT

Vs.

§

PRECINCT 2 PLACE 1

§

HUNT COUNTY, TEXAS

Affidavit (50 USC Sec. 520)

Plaintiff being duly sworn on oath deposes and says that defendant(s) is / are

Check One

- ☐ Not in the military.
- ☐ Not on active duty in the military and/or
- ☐ Not in a foreign country on military service
- ☐ On active military duty and/or is subject to the Service Members Civil Relief Act of 2003
- ☐ Has waived his/her rights under the Service Members Civil Relief Act of 2003
- ☐ Military status is unknown at this time.

\_\_\_\_\_  
Plaintiff

(Select the applicable title under the signature for the jurat below)

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

- ☐ Notary public in and for the State of Texas
- ☐ Clerk of the Justice Court

**\*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.\***