



EVICTION INFORMATION

*****PLEASE READ THIS DOCUMENT IN ITS ENTIRETY*****

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 for filing your case.

Please feel free to contact our staff 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
1106 Main St.– P. O. Box 411,
Commerce, Texas 75429
903.886.6726 * Fax 903.886.8387**

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**Constable Michael Benson
Precinct 2, Place 1, Hunt County, Texas
1106 Main St. – P. O. Box 411,
Commerce, Texas 75429
903.886.7937 * Fax 903.886.8387**

**Chief Clerk – Debbie Driggers
ddriggers@huntcounty.net**

**Clerk- Ericka Campbell
ecampbell@huntcounty.net**

**Clerk – Amanda Suarez
asuarez@huntcounty.net**

EVICTION INSTRUCTIONS – PLEASE READ CAREFULLY

You are strongly encouraged to read the Texas Rules of Civil Procedure and the Texas Property Code, Chapters 24 and 92. 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:** 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 NOTICE TO VACATE 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. **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>
4. **MOBILE HOME CASES:** 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>
5. **FILING FEE AND SERVICE FEE: The filing fee to file an eviction is \$54.00. The fee for service of the citation is \$75.00 for each defendant (persons on the lease).** Cash, cashier checks, credit cards, and money orders are accepted; however, cash must be in the exact amount.
6. **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.
7. **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.
8. **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 (\$20,000.00). 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.
9. **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.
10. **THE HEARING:** You or your representative are required to appear personally for the hearing. Proper representation is essential. 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. 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.

11. **JUDGMENT:** 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 5-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.

WRIT OF POSSESSION: Once a case is appealed, the landlord loses the opportunity to obtain a writ of possession; unless the judgment is for back rent, and the tenant fails to pay one month's rent into the court registry. The landlord may obtain a writ of possession until the case leaves our offices and is filed with the Hunt County Clerk's Office. This office will not hold an appeal for the landlord to decide to obtain a writ of possession. The landlord will have the 6th day (1 day after rent was due to the registry) to obtain a writ of possession. 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 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. If the final judgment is from the appellate court, the writ of possession will be issued from that court.

12. **LEGAL ADVICE:** This office cannot give legal advice. We can, however, give procedural information. If you need legal advice, please visit the following websites:

- a. www.texasbar.com
- b. www.texaslawhelp.org
- c. www.tjctc.org/SRL
- d. Legal Aid – 800-906-3054

Every Eviction Suit must include these documents:

- **Sworn Complaint for Eviction (Petition)**
- **Service Members Civil Relief Act Affidavit**
- **Constable's Safety Form (suggested but not required)**

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 \$150.00 and a \$5.00 filing fee for a total of \$155.00. 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 mbenson@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 PREMESIS. THE LANDLORD IS RESPONSIBLE FOR REMOVAL.

PLAINTIFF'S PETITION FOR EVICTION – CAUSE #: _____

THE STATE OF TEXAS
IN THE JUSTICE COURT, PRECINCT 2 PLACE 1
HUNT COUNTY, TEXAS

FOR COURT USE ONLY

FILE DATE: _____ COURT DATE: _____ TIME: _____

PLAINTIFF (LANDLORD/PROPERTY NAME)

v.

DEFENDANT(s) – Including all other occupants

RENTAL SUBSIDY (IF ANY): _____

TENANT'S PORTION: _____

TOTAL MONTHLY RENT: _____

PETITION: EVICTION CASE

COMPLAINT: Plaintiff hereby sues the following defendant(s) _____ for eviction of Plaintiff's premises (including storerooms and parking areas) located in the above precinct. The address of the property is:

Street Address	Unit # / Apt # (if any)	City	State	Zip
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GROUND'S FOR EVICTION: Plaintiff alleges the following grounds for eviction:

- Unpaid rent:** Defendant(s) failed to pay rent for the following time periods: _____. The amount of rent claimed as of the date of filing is \$ _____. Plaintiff reserves the right to orally amend the amount at trial due from the date of filing through the date of trial.
- Other lease violations:** Defendant(s) breached the terms of the lease (other than failing to pay rent) as follows: _____
- Holdover:** Defendant(s) are unlawfully holding over by failing to vacate at the end of the rental term or renewal of extension period, which was the ____ 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____ by the following method: _____

SUIT FOR RENT: Plaintiff does or does not include a suit for unpaid rent.

ATTORNEY FEES: Plaintiff will be or will not be seeking applicable attorney's fees. The attorney's name, address, phone and fax numbers are: _____

IMMEDIATE POSSESSION BOND: If Plaintiff has filed a bond for immediate possession, Plaintiff requests that: (1) the Court set the amount of the bond; (2) the Court approve the bond; and (3) proper notices, as required by the Texas Rules of Civil Procedure, are given to Defendant(s).

SERVICE OF CITATION: Service is requested on Defendant(s) by personal service at home or work, or by delivery to a person over the age of 16 years at Defendant's usual place of residence. If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other home or work addresses where Defendant(s) may be served are: _____

Plaintiff knows of no other home or work addresses of Defendant(s) in this county.

RELIEF: Plaintiff requests that Defendant(s) is served with the citation and that Plaintiff is awarded a judgment against Defendant(s) for: possession of the premises, including removal of Defendant(s) and Defendant's 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 lease, or if not so stated, at the statutory rate for judgments.

- I hereby request a jury trial. The fee is \$22 and must be paid at least 3 days before trial.
- I give my consent for the answer and any other motions or pleadings to be sent to my email address which is listed below.

Defendant's information (if known):

Email: _____

Date of birth: _____

*Last 3 numbers of Driver License: _____

*Last 3 numbers of Social Security: _____

Phone Number(s): _____

Plaintiff's Printed Name

Signature of Plaintiff (Landlord/Property Owner/Agent)

Address of Plaintiff (Landlord/Property Owner/Agent)

City State Zip

Plaintiff's Email Address

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT TWO
	§	
_____	§	
DEFENDANT	§	HUNT COUNTY, TEXAS

SERVICEMEMBER’S CIVIL RELIEF ACT AFFIDAVIT

THIS DOCUMENT IS REQUIRED IN ORDER TO FILE AN EVICTION CASE (1 PAGE)

Instructions: The Servicemember’s 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 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 the plaintiff to file a bond in an amount approved by the court. To obtain certificates of service or non-service under the Servicemember’s Civil Relief Act, you may access the public website: <https://www.dmdc.osd.mil/applj/scra/scraHome.do>. This website will provide the current active military status of an individual.

Plaintiff being duly sworn under oath swears that Defendant is: *(check one)*

- not on active duty in the military
- on active military duty and/or is subject to the Servicemember’s Civil Relief Act of 2003
- has waived in writing his/her rights under the Servicemember’s Civil Relief Act of 2003
- military status is unknown at this time

PLAINTIFF

SWORN TO AND SUBSCRIBED before me on _____, 20____.

CLERK OF THE JUSTICE COURT OR NOTARY

**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.*

NOTICE TO VACATE

DATE OF NOTICE: _____

To Tenant: _____

You have violated your lease agreement as described: _____

Or you have failed to pay rent for the following periods: _____

NOTICE: You are hereby required to vacate the premises, within _____ days after service on you of this notice.

In the event that the premises at _____,
_____, Texas in Hunt County are not vacated by you within _____ days from delivery of this notice, I/we will file a Forcible Detainer suit against you for possession of the premises and any past rent that is due.

Landlord Signature

DATE NOTICE SERVED

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT TWO
	§	
_____	§	
DEFENDANT	§	HUNT COUNTY, TEXAS

CONSTABLE SAFETY FORM

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?