

# Eviction Packet

Judge Kirk D. Martin

**Eviction Case:** 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.

## **Important Notice:**

**APPROPRIATE COURTROOM ATTIRE IS REQUIRED.** All persons entering the courtroom should be dressed in clothing reasonable befitting the dignity and solemnity of the court proceedings. No shorts, tank tops, flip flops, hats, etc. Cell phones and other electronics must be turned off when in the courtroom. Food and drink is not allowed in the courtroom.

# Section 24.005

## Notice to Vacate Prior to Filing Eviction Suit

(a)

If the occupant is a tenant under a written lease or oral rental agreement, the landlord must give the tenant who defaults or holds over beyond the end of the rental term or renewal period at least three days written lease or agreement. A landlord who files a forcible detainer suit on grounds that the tenant is holding over beyond the end of the rental term or renewal period must also comply with the tenancy termination requirements of Section 91.001.

(b)

If the occupant is a tenant at will or by sufferance, the landlord must give the tenant at least three days written notice to vacate before the landlord files a forcible detainer suit unless the parties have contracted for a shorter or longer notice period in a written lease or agreement. If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale under a lien superior to the tenant's lease and the tenant timely pays rent and is not otherwise in default under the tenant's lease after foreclosure, the purchaser must give a residential tenant of the building at least 30 days written notice to vacate if the purchaser chooses not to continue the lease. The tenant is considered to timely pay the rent under this subsection if, during the month of the foreclosure sale, the tenant pays the rent for that month to the landlord before receiving any notice that a foreclosure sale is scheduled during the month or pays the rent for that month to the foreclosing lienholder or the purchaser at foreclosure not later than the fifth date after the date of receipt of a written notice of the name and address of the purchaser that request payment. Before a foreclosure sale, a foreclosing lienholder may give written notice to the tenant stating that a foreclosure notice has been given to the landlord or owner of the property and specifying the date of the foreclosure.

(c)

If the occupant is a tenant of a person who acquired possession by the forcible entry, the landlord must give the person at least three days written notice to vacate before the landlord files a forcible detainer suit.

(d)

In all situation in which the entry by the occupant was a forcible entry under Section 24.001, the person entitled to the possession must give the occupant oral or written notice to vacate before the landlord files a forcible entry and detainer suit. The notice to vacate under this subsection may be to vacate immediately or by specified deadline.

(e)

If the lease or applicable law requires the landlord to give a tenant an opportunity to respond to a notice of proposed eviction, a notice to vacate may not be given until the period provided for the tenant to respond to the eviction notice has expired.

(f)

Except as provided by Subsection (f-1), the notice to vacate shall be given in person or by mail at the premises in questions. Notice in person may be by personal delivery to the tenant or any person residing at the premises who is 16 years of age or older or personal delivery to the premises is affixing the notice to the inside of the main entry door. Notice by mail may be by regular mail, by registered mail, or by certified mail, return receipt requested, to the premises in question.

(f-1)

As an alternative to the procedures of Subsection (f), a landlord may deliver the notice to vacate by securely affixing to the outside of the main entry door a sealed envelope that contains the notice and on which is written the tenants name, address, and in all capital letters, the words "IMPORTANT DOCUMENT" or substantially similar language and, not later than 5 p.m. of the same day, depositing in the mail in the same county in which the premises in question is located a copy of the notice to the tenant if:

(1)

The premises has no mailbox and has a keyless bolting devise, alarm system, or dangerous animal that prevents the landlord from entering the premises to affix the notice to vacate to the inside of the main entry door; or

(2)

The landlord reasonably believes that harm to any person would result from personal delivery to the tenant or a person residing at the premises or from personal delivery to the premises by affixing the notice to the inside of the main entry door.

(f-2)

Notice to vacate under Subsection (f-1) is considered delivered on the date the envelope is affixed to the outside of the door and is deposited in the mail, regardless of the date the notice is received.

(g)

The notice period is calculated from the day on which the notice is delivered.

(h)

A notice to vacate shall be considered a demand for possession for purposes of Subsection (b) of Section 24.002.

(i)

If before the notice to vacate is given as required by the section the landlord has given a written notice or reminder to the tenant that rent is due and unpaid, the landlord may include in the notice to vacate required by the section a demand that the tenant pay the delinquent rent or vacate the premises by the date and time stated in the notice.

# **EVICTION SUIT FEES**

**Eviction**                      Filing fee- \$54.00 made payable to Justice of the Peace #4  
Service fee- \$100.00 (per person served) made payable to  
Parker County Constable

**Jury Fee**                      \$22.00 made payable to Justice of the Peace #4

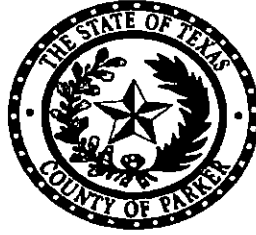
**Writ of Possession**            \$5.00 made payable to Justice of the Peace #4  
\$150.00 made payable to Parker County Constable

**The Writ of Possession may be filed on the 6<sup>th</sup> day after judgment but not more than 60 days after judgment for possession unless good cause is shown.**

**Abstract of Judgment**      Issuance fee- \$5.00 per abstract made payable to Justice of the Peace #4

**The Abstract of Judgment may be filed on the 6<sup>th</sup> day after judgment, and may be filed in each county where the Defendant owns real property. *A separate filing fee will need to be paid to the County Clerk's office at the time of filing the Abstract.***

KIRK D. MARTIN  
JUSTICE OF THE PEACE, PRECINCT FOUR



**READ CAREFULLY BEFORE FILING THE PETITION**

The following information is furnished to you as a courtesy of the Justice of the Peace office for filing eviction suits. The Court cannot advise you what you should do and are barred by law from giving you legal advice. The Court can only answer procedural questions.

**Eviction suits must be filed in the Justice Precinct where the property is located.** If you are unsure, please contact 911 addressing in Parker County at 817-598-6135. This is a suit for you to regain possession of your property or to combine a suit for rent with this suit. Please print clearly.

- The plaintiff is the owner of the property; if you are acting as agent, the owner is the plaintiff (not you) and you should sign the petition as the agent for the landlord (plaintiff). **Agents must provide a signed notarized statement from the landlord designating you as agent.**
- You must name all persons that signed your lease as defendants. All others living at the property can be considered "all other occupants" (ex: "John Doe and all other occupants"). If you name more than one person, you will be required to pay a service fee for each person named.
- State tenant's full address, including apartment number (if applicable) and city.
- In order to properly file this suit, you must have given the defendant(s) a written demand to vacate the premises.
- In order to sue for attorney fees, you must have given the tenant a 10-day written notice which stated that if they did not vacate by the 11<sup>th</sup> day after the date of receipt of the notice, you would be entitled to attorney's fees (if employment of counsel is necessary and verified).
- You must also complete the Justice Court Civil Information Sheet and the Military Affidavit.
- If you are suing for past due rent and/or attorney's fees the total amount of both added together cannot exceed \$10,000.

The cost for you to have your case filed and the citation served is **\$154.00** if only one defendant. Service fee for each additional defendant will be an additional \$100.00. This is a "court cost" that can be included in the judgment if you win your case. If filing in person the day and time of hearing will be written on your receipt. If filing by mail, you will receive notice of hearing by mail, phone call or email if provided. **PLEASE NOTE: YOU MUST HAVE COPIES FOR THE COURT'S FILE OF ANY DOCUMENTS YOU INTEND TO SUBMIT TO THE COURT AS EVIDENCE. YOU WILL BE CHARGED FOR ANY COPIES THE COURT MUST MAKE.**

Evictions may be dismissed only in open court or by written motion. If the tenant vacates the property and you do not want to come for the hearing and obtain your written judgment, you must submit a written motion for dismissal so the case can be cleared from the court's docket.

# JUSTICE COURT CIVIL CASE INFORMATION SHEET

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.

1. Contact Information for person completing case information sheet.	2. Names of parties in this case:
Name: _____ Phone #: _____ Fax #: _____ Address: _____ City/State/Zip _____ State Bar # _____ Email: _____  Signature: _____ _____	Plaintiff(s): _____ _____ Defendant(s): _____ _____ _____ _____ (Attach additional pages as necessary to list all parties)
<b>3. Indicate case type, or identify the most important issue in the case (select only 1)</b>	
<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.	<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 of 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.
<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.	<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.

**PETITION: EVICTION CASE**

CASE NO. (court use only) \_\_\_\_\_  **With suit for Rent** COURT DATE: \_\_\_\_\_

In the Justice Court, Precinct 4, Parker County, Texas

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

Rental Subsidy (if any) \$ \_\_\_\_\_  
Tenant's Portion \$ \_\_\_\_\_

VS.

DEFENDANTS(S): \_\_\_\_\_ 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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1. **SERVICE OF CITATION:** Service is requested of defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Rules of Court. Other addresses where the defendant(s) may be served are:

2.  **UNPAID RENT AS GROUNDS FOR EVICTION:** Defendant(s) failed to pay rent for the following time period(s): \_\_\_\_\_ **TOTAL DELINQUENT RENT AS DATE OF FILING IS: \$** \_\_\_\_\_ 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.

3.  **OTHER GROUNDS FOR EVICTION/LEASE VIOLATIONS:** Lease Violations (if other than non-paid rent – list lease violations) \_\_\_\_\_

4.  **HOLDOVER 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 the extension period, which was the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

5. **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 \_\_\_\_\_ and delivered by this method: \_\_\_\_\_

6. **ATTORNEY'S FEES:** Plaintiff  will be  will NOT be seeking applicable attorney's fees. Attorney's name, address, and phone & fax numbers are: \_\_\_\_\_

7.  **BOND FOR POSSESSION:** If Plaintiff has filed a bond for possession, plaintiff requests (1) that amount of plaintiff's bond and defendant's counter bond be set, (2) that plaintiff's bond be approved by the Court, and (3) that proper notices as required by the Texas Justice Court Rules are given to Defendant(s).

**REQUEST FOR JUDGEMENT:** Plaintiff prays that defendant(s) be served with citation and that plaintiff have 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 any other motions or pleadings to be sent to my email address which is: \_\_\_\_\_

8.  I certify that I have reviewed the information on the Texas Eviction Diversion Program at [www.txcourts.gov/eviction-diversion](http://www.txcourts.gov/eviction-diversion).

\_\_\_\_\_  
Petitioner's Printed Name

\_\_\_\_\_  
Signature of Plaintiff (Landlord/Property Owner) or Agent

**DEFENDANT(S) INFORMATION (if known):**

\_\_\_\_\_  
Address of Plaintiff (Landlord/ Property Owner) or Agent

DATE OF BIRTH: \_\_\_\_\_

\*LAST 3 NUMBERS OF DRIVER LICENSE: \_\_\_\_\_

\*LAST 3 NUMBERS OF SOCIAL SECURITY: \_\_\_\_\_

City

State

Zip

DEFENDANT'S PHONE NUMBER: \_\_\_\_\_

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

_____	§	IN THE JUSTICE COURT
VS	§	PRECINCT FOUR
_____	§	PARKER COUNTY, TX

**AFFIDAVIT OF MILITARY STATUS OF DEFENDANT**

Before me, the undersigned clerk of the justice court or notary public, on this day personally appeared the undersigned affiant whose identity is known to me. After I administered an oath to such affiant, he or she upon oath and under penalty of perjury stated the following:

My name is *[please print]* \_\_\_\_\_; I am *[check one]* \_\_\_\_\_ the plaintiff or \_\_\_\_\_ an authorized agent or \_\_\_\_\_ attorney for the plaintiff in the above styled and numbered cause. I am over the age of 18 and am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

***[check as applicable]***

- The defendant is not in the military.
- The defendant is not on active duty in the military and/or
- The defendant is not in a foreign country on military service.
- The defendant is on active military duty and/or is subject to the Service member Civil Relief Act of 2003.
- The defendant has waived his/her rights under the Service member Civil Relief Act of 2003.
- The defendant's military status is unknown at this time.

\_\_\_\_\_  
Signature of Plaintiff/Agent/Attorney

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

\_\_\_\_\_  
Court Clerk/Notary Public

**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.**





# *Parker County Constable's Office*

## *Precinct 4*

*5189 East I-20 Service Road North, Suite 110*

*Willow Park, Texas 76087*

*817-441-9396 Ext. #2*

*Constable Scott Jones*

## **Eviction Information**

Describe the residence you are evicting the defendants from:

Check One

Mobile Home	[ ]	Apartment	[ ]
Brick Home	[ ]	4-Plex	[ ]
Frame Home	[ ]	Duplex	[ ]

Color of Residence: \_\_\_\_\_

Gate Code: \_\_\_\_\_

Please draw a map to the property or give any details that might help us identify the property. You may use the back of this sheet if necessary. This will help assure we get your citation served in a timely manner.

Thank You,

Constable Precinct 4

## \*\*\*Self-Represented Litigants Resources\*\*\*

- Texas Lawyer Referral Service – (800) 252-9690
- To check military status –  
<https://www.dmdc.osd.mil/scra/owa/home>
- Texas Justice Court Training Center information for self-represented litigants – [www.tjctc.org/SRL](http://www.tjctc.org/SRL)
- Office of Court Administration Self-Represented Litigant Site:  
[www.txcourts.gov/programs-services/self-help/self-represented-litigants/](http://www.txcourts.gov/programs-services/self-help/self-represented-litigants/)
- State Bar of Texas Information, including legal information and low or no cost legal assistance: [www.texasbar.com](http://www.texasbar.com), and then click on “For The Public”
- Forms and information, including for other types of cases –  
[www.texaslawhelp.org](http://www.texaslawhelp.org)
- Texas Eviction Diversion Program (TEDP) –  
[www.txcourts.gov/eviction-diversion](http://www.txcourts.gov/eviction-diversion)