

EVICTION SUIT

Justice Court Pct. 1 of Midland Country, Texas
400 S. Main St – Midland, Texas 79701
www.co.midland.tx.us

Honorable Edelmira “Ede” Subia
Justice of the Peace, Pct. 1
(432) 688-4742

Information/ instructions for filing an **Eviction Suit**. Please read carefully before completing the Petition.

PLEASE NOTE: EFFECTIVE AUGUST 31, 2013 ALL CIVIL SUITS IN JUSTICE COURTS WILL BE GOVERNED BY NEW RULES OF CIVIL PROCEDURE FOR JUSTICE COURT CASES ADOPTED BY THE SUPREME COURT OF TEXAS. TO REVIEW THE NEW RULES OR PRINT A COPY PLEASE VISIT THE MIDLAND COUNTY WEBSITE AT www.co.midland.tx.us. IT IS HIGHLY RECOMMENDED THAT YOU REVIEW THE NEW RULES PRIOR TO FILING YOUR CASE.

TO REVIEW ALL THE TEXAS RULES OF CIVIL PROCEDURE AND RULES OF EVIDENCE PLEASE FOLLOWING THE LINK TO THE SUPREME COURT OF TEXAS. <http://www.supreme.courts.state.tx.us/rules/rules.asp>

COURT PERSONNEL ARE PROHIBITED FROM TELLING YOU WHICH PRECINCT YOUR ADDRESS IS LOCATED IN. YOU MAY CONSULT THE COUNTY MAP IN THE COURT’S LOBBY OR CONTACT THE **MIDLAND COUNTY ELECTIONS OFFICE AT 432-688-4890 TO DETERMINE WHICH PRECINCT THE PROPERTY IS LOCATED. COURT PERSONNEL ARE PROHIBITED IN GIVING “LEGAL ADVICE”. ALTHOUGH AN ATTORNEY IS NOT REQUIRED, YOU MAY WISH TO CONSULT AN ATTORNEY.**

Prior to filing suit, the landlord must serve either a proper notice to vacate or a notice to pay or vacate depending on the circumstances, in compliance with Section 24.005, Texas Property Code, to each person signing the lease. (You MUST bring a copy for the courts file.) A landlord may not file an eviction until a proper notice has been given, time period of the notice has expired, and the premises have not been vacated.

Completing your petition:

Chapter 24, 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. A refund of court costs and filing fees will NOT be given.

The Petition must be FULLY COMPLETED and typed or printed neatly in ink. A service (physical) address as well as a mailing address is required for all properties including rural properties and mobile homes/trailer parks.

The attached petition covers all causes of action in an **Eviction Suit** such as owner wants possession, suits for back rent, and breach of lease by tenant.

An **Eviction Suit** may be joined with a suit for back rent only. The actual amount owed must be \$20,000 or less. **No late fees or damages to the property may be included.** For those actions ask for Justice Court Small Claims Case information.

What must be filed?

TWO ORIGINAL PETITIONS

ONE Original Notice to Vacate OR Notice to Pay or Vacate served to tenant(s).

ONE Military Affidavit

ONE Military Status Report

Always keep track of your case numbers so that you can refer to them when calling our office regarding your case. The case number will be on your receipt.

As Plaintiff, if you no longer wish to pursue your case you must notify the Court in writing as soon as possible and at least one day prior to the day of trial and to avoid the sheriff or constable attempting service to those where service is not necessary.

MIDLAND COUNTY JP1 EVICTION PACKET

DISCOVERY: ANY AND ALL PRE TRIAL/PRE JUDGMENT DISCOVERY MUST BE APPROVED BY THE COURT. PLEASE REFER TO SECTION 500.9 OF THE NEW RULES.

RULE 501.4 REQUIRES YOU, AS PLAINTIFF OR DEFENDANT, TO SERVE THE OTHER PARTY WITH ANYTHING FILED WITH THE COURT IN THE MANNER PRESCRIBED BY THIS RULE.

Should you be granted possession of the property and the defendant fails to move or fails to appeal to the County Court within 5 days, you may request a **Writ of Possession** ordering the defendant to move. The Writ may be requested (in writing) at **the beginning of the 6th day following the date the Judgment was signed by the Judge.**

This court does not collect the money judgment for you nor can we force an indigent defendant to pay the judgment. If you receive a judgment against the defendant this court can issue various instruments to assist you in collecting the judgment. **IT IS RECOMMENDED THAT YOU CONSULT WITH AN ATTORNEY FOR THESE PROCESSES.** You may request an **Abstract of Judgment, Writ of Execution Writ of Garnishment, and Turnover Order.**

An Abstract Judgment puts a lien on any real property the defendant may own in a particular county where the Abstract is recorded. The Abstract is only valid in the county or counties where it is recorded. This can be obtained ten days after the date the judgment is signed.

The Writ of Execution may be obtained thirty days after the judgment is signed. This document will authorize the Sheriff or Constable to seize any assets belonging to the defendant that are subject to this writ. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment.

A Writ of Garnishment is also available 30 days after the final judgment has been signed. This Garnishment proceeding is a separate suit wherein you are the plaintiff and the defendant's bank becomes the defendant. You are actually suing the bank in which the original defendant has his bank account. You are warning the said bank to freeze the monetary assets of his account and to appear and make answer to the Garnishment suit. **An attorney is required.**

A Turnover Order is available after the judgment is signed and its purpose is to provide a court-ordered means of reaching property which cannot easily be reached thorough ordinary legal process and which is exempt from attachment, execution, etc. **An attorney should be used** because the courts clerical staff will not be able by law to assist you in drafting the documents that are necessary.

A Subpoena may be requested if you need a witness(s) in your case. Except as provided by Section 22.002, a witness is entitled to **\$10 dollars** for each day the witness attends court. This fee includes the entitlement for travel and the witness is not entitled to any reimbursement for mileage traveled. The **party who summons** the witness shall pay that witness's fee for one day, as provided by this section, at the time the subpoena is served on the witness. The witness fee must be taxed in the bill of costs as other costs.

Fee Schedule for Eviction suits: (MONEY ORDERS ONLY or CASHIERS CHECKS; NO PERSONAL CHECKS OR CASH ACCEPTED)

	Court Fees	Service Fees	Total
Filing fee-Defendant in Midland Co.	\$54	\$100	\$154
2 Defendants (same case)	\$54	\$200	\$254
Defendant out-of-County	\$54	(call for amount)	

Jury Fee \$22.00

(Request for Jury must be made and fee paid no later than 14 days before the case is set for trial. If not timely made, the right to a jury trial is waived).

	Court Fees	Service Fees	Total
Abstract of Judgment	\$5.00		\$5.00
Writ of Possession	\$10.00	\$200.00	\$210.00
Writ of Execution	\$20.00	\$200.00	\$220.00
Subpoena	\$10.00	\$100.00	\$110.00
Writ of Garnishment	\$54.00	\$100.00	\$154.00
Turnover Order	\$11.00	\$200.00	\$211.00

NO CAPS, HATS, SHORTS, GUM, FOOD, DRINKS OR WEAPONS ARE ALLOWED IN COURTROOM. ALSO, CELL PHONES MUST BE SILENT OR TURNED OFF. PLEASE BE PROMPT AND DRESSED APPROPRIATELY.

NOTICE TO VACATE (3 days)

OWNERS NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE: _____

DATE SERVED: _____

TO: _____ AND ALL OTHER OCCUPANTS
(All persons intended to be evicted should be listed by name if known)

Being entitled to possession of the following described real estate and premises, I hereby demand possession of the same from you, to-wit: (full address of premises)

Suit for eviction will be filed unless the premises rented to you are vacated with **(3)** days from delivery of this notice.

SIGNATURE (Owner/Agent)

Print Signature from above

WITNESS SIGNATURE

Date Witnessed

This form is provided to you as a courtesy. You should refer to Section 24.005, Texas Property Code.

NOTICE TO PAY OR VACATE (3 days)

OWNERS NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE: _____

DATE SERVED: _____

TO: _____ AND ALL OTHER OCCUPANTS

(All persons intended to be evicted should be listed by name if known)

Being entitled to possession of the following described real estate and premises, I hereby demand possession of the same from you, to-wit: (full address of premises)

Suit for eviction will be filed unless the premises rented to you are vacated with (3) days from delivery of this notice.

SIGNATURE (Owner/Agent)

Print Signature from above

WITNESS SIGNATURE

Date Witnessed

This form is provided to you as a courtesy. You should refer to Section 24.005, Texas Property Code.

MIDLAND COUNTY JP1 EVICTION PACKET

PETITION: EVICTION CASE

CASE NO. (Court use only) _____ With suit for Rent COURT DATE: ___ / ___ / ___ @ _____

PLAINTIFF _____ In the Justice Court, Precinct 1 Midland County, Texas
(Landlord/Property Name)

VS.

DEFENDANT(S): _____
(Each person obligated under written lease must be listed on a separate petition)

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 on defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court 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 OF 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 extension period, which was the ___ day of _____, 20__.

5. **PRE-SUIT NOTICE:** 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: _____

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

7. **IMMEDIATE POSSESSION BOND:** 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) that proper notices as required by the Texas Justice Court Rules are given to defendant(s).

8. **SQUATTER:** Defendant(s) never had a right to possess the property and are unlawfully occupying the premises after demand to surrender possession given on _____, 20__. Plaintiff has or has not attached a Motion for Summary Disposition under Rule 510.10.

9. **EXPIRATION OF TENANCY AT WILL OR BY SUFFERANCE:** Defendant(s) had no lease agreement and have failed to vacate the premises after being given a termination notice, if applicable, and a demand to surrender possession given on _____

MIDLAND COUNTY JP 1 EVICTION PACKET

RELIEF: 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.

I give my consent for the answer and any 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: _____

Address of Plaintiff (Landlord/Property Owner) or Agent

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

City State Zip

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

Phone & Fax No. of Plaintiff (Landlord/Property Owner) or agent

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

CLERK OF THE JUSTICE COURT OR NOTARY

MIDLAND COUNTY JP1 EVICTION PACKET

PETITION: EVICTION CASE

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PLAINTIFF _____ In the Justice Court, Precinct 1 Midland County, Texas
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MIDLAND COUNTY JP 1 EVICTION PACKET

RELIEF: 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.

I give my consent for the answer and any 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: _____

Address of Plaintiff (Landlord/Property Owner) or Agent

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

City State Zip

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

Phone & Fax No. of Plaintiff (Landlord/Property Owner) or agent

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

CLERK OF THE JUSTICE COURT OR NOTARY

EXAMPLE

MANDATORY

s as of : Aug-13-2012 01:57:02

Department of Defense Manpower Data C

SCRA 2.3



Status Report
Pursuant to Servicemembers Civil Relief Act

Last Name: WADE

First Name:

Middle Name:

Active Duty Status As Of: Aug-13-2012

**EXAMPLE
NOT
ACTIVE**

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavely-Dixon

Mary M. Snavely-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

Department of Defense Manpower Data Center

Results as of : Aug-13-2012 02:10:51

SCRA 2.3



Status Report
Pursuant to Servicemembers Civil Relief Act

MANDATORY

Last Name: HENRY

First Name:

Middle Name:

Active Duty Status As Of: Aug-13-2012

EXAMPLE ACTIVE

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
May-14-2002	Still Serving	Yes	Air Force Active Duty
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

MIDLAND COUNTY JP 1 EVICTION PACKET

In addition to the above information, the Service members' Civil Relief Act has become law. The legislation, passed by Congress and signed by the President, took effect immediately when it was signed on December 19, 2003.

When filing any Civil Suits this form MUST be filled out with proof of military status and accompany the complaint upon filing. Military status can be determined at <https://scra.dmdc.osd.mil/scra/#/home> The fees remain the same.

CASE NO. _____

**MILITARY AFFIDAVIT
SEC. 201 (b)**

Plaintiff being duly sworn on oath deposes and says that defendant(s):

is not in the military

not on active duty in the military and/or

not in a foreign country on military service

is on active military duty and/or is subject to the Service members Civil Relief Act of 2003

military status unknown at this time

PLAINTIFF SIGNATURE

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.

SERVICE INFORMATION SHEET

PLEASE COMPLETE THIS INFORMATION TO EXPEDITE SERVICE OF YOUR PAPERS.

PLAINTIFF NAME: _____

RESIDENCE: _____

PLACE OF EMPLOYMENT: _____

RESIDENCE PHONE: _____ **WORK PHONE:** _____

Number at which you can be reached or can leave a message: _____

DAYTIME FAX: _____

EMAIL: _____

DEFENDANT NAME: _____

RESIDENCE: _____

PLACE OF EMPLOYMENT: _____

RESIDENCE PHONE: _____ **WORK PHONE:** _____

MAIL ADDRESS IF DIFFERENT: _____

TYPE OF RESIDENCE: _____

Description of residence and any special direction:

WRIT of POSSESSION

1. The Constable will receive the Writ and will post a written notice informing the tenant that a Writ has been issued by the Court containing the date and time the Writ will be executed, the Writ must give **at least** 24 hours notice before execution, the Writ will be executed according to the Constables schedule for the week.
2. The Landlord must provide a crew to work at the Constables **direction and discretion** in removing the tenant's personal property.
3. **You will need** large HEFTY trash bags for putting things in, you will also need a **hand truck** to move the washer & dryer, stove, refrigerator, and other things like boxes.
4. The first 2 hours of the writ of possession are free, after that the charge is **\$35.00 per hour per officer at the start of the 3rd hour payable in cash only**, this law is to keep landlords from showing up with 1 or 2 people to remove the contents of a 3 or 4 bedroom house full of the tenants personal property, the bigger the house and the more property that is in the house the more people you will need.
5. The tenants personal property will be set out in the front yard, not on the side walk, the property must remain there for a reasonable time (no definition for reasonable) ½ a day, all day or a 24 hour period, **be aware that at some point you will be responsible for removal of the tenants personal property if the tenant does not remove it.**
6. The Constable is on site to remove the occupants if necessary, to supervise the removal of the occupants personal property, to confiscate any illegal or prescription drugs and or weapons found on the property, to assure that the removal of the tenants personal property confirms to Texas State Law and to insure that there is no violence between the parties involved, a Writ of Possession is a very stressful time for all parties.
7. Once a Writ of Possession begins no member of the crew may leave without permission, 1. We need all members of the crew until we are finished and 2. there cannot be any accusation that a crew member stole something.
8. If something brakes or is broken using ordinary care we are not responsible, but intentional breakage will not be tolerated at any point, if property disappears after the Constable leaves the Constable and landlord and the crew are not responsible.
9. Once all of the tenant's personal property has been removed the last thing is to change the locks on all exterior doors effectively returning the real property back to the landlord.

**Constable Pct. #1
432-688-4711
432-556-4036**

Eviction Pre-Suit Notice Chart

In Texas eviction cases, a landlord will be required to provide either a pre-suit “Notice to Vacate” or “Notice to Pay or Vacate” depending on the circumstances. This chart includes the statutory time periods for either type of notice. *To learn more about the differences in Notices to Vacate or Notices to Pay or Vacate, please review the Evictions Deskbook, Chapter 4.*

Type of Tenancy	Time Period
Tenancy for a Fixed Term	3 days’ written notice unless lease provides otherwise Prop Code 24.005(a)
Tenancy at Will <i>without Rental Payment</i> (no fixed term, such as boyfriend/girlfriend or parent/adult child)	3 days’ written notice Prop Code 24.005(b)
Tenancy at Will <i>with Fixed Rental Payments</i> (such as month-to-month agreements)	3 days’ written notice unless lease specifies otherwise. If no breach of lease, must first give termination notice of at least one rental period unless lease specifies otherwise Prop Code 24.005(b); 91.001
Tenancy by Sufferance (such as an owner who was foreclosed upon)	3 days’ written notice Prop Code 24.005(b)
Residential Tenant of an Owner Who Was Foreclosed Upon	<i>If requirements of bona fide tenant met</i> (see Evictions Deskbook Chapter 3 for details), tenant can finish lease unless purchaser will live in property as primary residence, in which case 90 days’ written notice Permanently Protecting Tenants at Foreclosure Act of 2018, 12 U.S.C. 5201
Squatter (person who entered without legal authority or by force)	Immediate notice, which can be written or oral Prop Code 24.005(d)
Tenant of a Squatter	3 days’ written notice Prop Code 24.005(c)
CARES Act Covered Dwelling in Nonpayment Eviction	30 days’ written notice Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, 134 Stat. 281 (2020).