

MIDLAND COUNTY JP3-EVICTION SUIT

400 S. Main – Midland, Texas 79701 www.co.midland.tx.us

Honorable Susan Rayos
Justice of the Peace, Pct. 3
(432) 688-4723 OR (432) 688-4808

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 a proper vacate notice 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 amount actually 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?

THREE ORIGINAL PETITIONS

ONE Original Notice to Vacate or Notice to Pay or Vacate served to tenant(s).
ONE Military Affidavit
ONE Military Status Report
ONE Service Information Sheet

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. The fax number for the Court is (432)688-4960.

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 OR CASH-NO PERSONAL CHECKS ACCEPTED)

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Filing fee-Defendant in Midland Co.	\$54	\$ 100	\$ 154
2 Defendants (same case)	\$54	\$ 200	\$ 254
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).

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
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	\$56.00	\$100.00	\$156.00
Turnover Order	\$11.00	\$200.00	\$211.00

PLEASE NOTE: WHEN COMING TO COURT, PLEASE BE PROMPT AND READY FOR COURT. NO SHORTS, CAPS, HATS, WEAPONS, FOOD OR DRINKS ARE ALLOWED IN THE COURTROOM. CELL PHONES MUST BE TURNED OFF.

LEGAL VACATE NOTICE (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.

CAUSE NO. _____

(The Clerk's office will fill in the Cause Number when you file this form)

With suit for Rent COURT DATE: ____/____/____ Time: _____ AM PM

Plaintiff - (Landlord/Property Name)

Vs.

Defendant(s)- (ALL OTHER OCCUPANTS)

(Each person obligated under written lease must be listed)

§
§
§
§
§

IN THE JUSTICE COURT

PRECINCT NO. 3

MIDLAND COUNTY, TEXAS

PETITION: EVICTION CASE

Government entity 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

SERVICE OF CITATION: Service is requested on Defendant(s) by personal service at home, 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 addresses where the Defendant(s) may be served are:

Street Address Unit No. (if any) City State Zip

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: \$ _____

Defendant has or has not been late/delinquent in paying rent before the month in which notice was given.

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.

OTHER LEASE VIOLATIONS: Defendant(s) breached the terms of the lease (other than by failing to pay rent) as follows:

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____.

SQUATTER: Defendant(s) never had a right to possess the property and are unlawfully occupying the premises after a demand to surrender possession given on the ____ day of _____, 20____.

EXPIRATION OF TENANCY AT WILL: Defendant(s) had no lease agreement and have failed to vacate after being given termination notice and demand to surrender possession given on the ____ day of _____, 20____.

PRE-SUIT NOTICE: Plaintiff has given Defendant(s) a notice to vacate notice to pay or vacate (according to Texas Property Code Chapter 24.005(f-3) or (f-4) and demand for possession. Such notice was delivered on the ____ day of _____, 20____ and delivered by this method:

_____.

CAUSE NO. _____

ATTORNEY'S FEES: Plaintiff will be / will NOT be seeking applicable attorney's fees. Attorney's name, address, and phone & 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).

RELIEF: Plaintiff request that Defendant(s) be served with citation and that Plaintiff is awarded 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 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.

SERVICE BY EMAIL: (Normally, documents in this case are sent by mail. If it is easier for you, you can choose to get some of the documents sent by email. If you choose to get documents by email, you must have an email account where you can receive, open, and view large attachments, and it is important that you check this email account every day. **Even if you receive some documents by email, you will still receive some documents about the case by mail or personal service, so you must not ignore any documents from the court or other parties received by mail or personal service.**)

Yes, I would like to receive documents related to this case by email at this email address:

E-mail: _____.

No, I do not want to receive any documents by email.

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: _____

Plaintiff Phone # Plaintiff Fax #
(Landlord/Property Owner or Agent)

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

NOTARY OR CLERK OF THE JUSTICE COURT





Status Report
Pursuant to Servicemembers Civil Relief Act

EXAMPLE

Last Name: WADE

First Name:

Middle Name:

NOT ACTIVE

Active Duty Status As Of: Aug-13-2012
EXAMPLE

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. Snavelly-Dixon

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

EXAMPLE



Status Report
Pursuant to Servicemembers Civil Relief Act

EXAMPLE

Last Name: WADE

First Name:

ACTIVE

Middle Name:
EXAMPLE

Active Duty Status As Of: Aug-13-2012

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
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This response reflects the individuals' active duty status based on the Active Duty Status Date			

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Mary M. Snavelly-Dixon

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

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 _____, .

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:
