



WHARTON COUNTY PRECINCT # 1, 2, 3, or 4

JUSTICE OF THE PEACE

To the Citizens of Precinct 1, 2, 3, or 4:

This Court is here for your benefit and it is our job to help you in any way possible. However, Rules of Judicial Ethics prohibit this office from giving legal advice, or expressing opinions of the law.

The Judge and the Court Clerk can answer questions only on a general nature, about procedures of this court, concerning court cost.

We must remain impartial, and we cannot hear any part of a case or discuss the merits of any case unless all parties are present.

**PLEASE DO NOT ASK US TO VIOLATE THESE RULES.**

The information contained herein is for your information and is offered as a guide to all interested parties. As always, we recommend that you seek some form of sound legal advice.

Thank you,

Justice of the Peace, Pct. 1, 2, 3, or 4

Wharton County Justice of the Peace  
Judge Jeanette Krenek, **Pct. 1**  
P.O. Box 1216 (1017 N. Alabama Road)  
Wharton, Texas 77488  
Phone (979) 532-3941---Fax (979) 531-0758

Wharton County Justice of the Peace  
Judge Cynthia L. Kubicek, **Pct. 2**  
P.O. Box 780 (736 Clubside Drive)  
East Bernard, Texas 77435  
Phone (979) 335-6210---Fax (979) 335-6312

Wharton County Justice of the Peace  
Judge Dennis Korenek, **Pct. 3**  
P.O. Box 184 (340 West North)  
Louise, Texas 77455  
Phone (979) 648-2363 ---Fax (979) 648-2359

Wharton County Justice of the Peace  
Judge Tim Drapela, **Pct. 4**  
605 E. Calhoun St.  
El Campo, Texas 77437  
Phone (979) 543-4322---Fax (979) 543-1568

## FILING AN EVICTION LAWSUIT

### VENUE:

Suit for possession of property, precinct in which all or part of the property is located.  
Suit for rent in which all or part of the property is located.

### REQUISITES:

If the occupant is a tenant under a written lease or oral rental agreement, the landlord must give a tenant who defaults or hold over beyond the end of the rental term or renewal period at least THREE DAYS WRITTEN NOTICE TO VACATE THE PREMISES 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.*

To recover attorney's fees in a Forcible Entry and Detainer Suite, the written demand to vacate the premises must state that if the tenant does not vacate before the 11<sup>th</sup> day after the date of receipt of the notice and if the landlord files suit, the landlord may recover attorney's fees. This notice must be sent certified mail, return receipt requested.

Notice to vacate may be by personal delivery to the tenant or any person residing at the premises who is sixteen (16) years of age or older, or personal delivery to the premises by affixing the notice to the inside of the main entry door. Notice by mail may be registered or certified mail, return receipt requested, to the premises in question.

### JURISDICTION:

In a forcible entry and detainer suit, the Court may render judgment for possession of the property in question. The landlord may receive judgment for back rent if the amount in controversy is not more than \$10,000.00.

### FILING SUIT:

The responsibility for filling out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have procedural questions. List each adult tenant on the lease or in a verbal agreement. State tenant's full address, including apartment number. List any known work address or other address where tenant may be located for service.

When filing, the landlord should bring the following:

- A. A copy of the lease (if you have one);
- B. A copy of the notice to vacate'
- C. One hundred six Dollars (\$ 106.00) for filing and service on one person
- D. Credit Card Payment Not Available for the filing fees.

Generally, all parties named in the lease should be sued and served with citation in the eviction proceeding. Any judgment granted will run only against those who are specifically named and served.

**CITATION;**

The Constable will serve each tenant with citation based on the information you give to the Court. The tenant will be informed in the citation the DATE and TIME of the hearing and a DEFAULT JUDGMENT may be rendered against him if he does not appear at the time designated.

**REPRESENTATION:**

The owner's agent may file any type of eviction suit and may represent the owner at any default judgment hearing. If the case is contested, an agent may represent either part if the case involves non-payment of rent or holding over.

**HEARING:**

Always arrive at least ten (10) minutes prior to trial and check in to the clerk and identify yourself by name along with the names of any witnesses that you want sworn to give testimony. BE SURE TO HAVE A COPY OF YOUR LEASE, NOTICE TO VACATE, AND PAYMENT RECORDS or any records pertaining to the case.

**IF THE DEFENDANT DOES NOT APPEAR AT HEARING"**

- A. The plaintiff will present their case to the Judge;
- B. If Judge rules in plaintiff's favor, a DEFAULT judgment will be granted.

**IF THE DEFENDANT APPEARS AT THE HEARING:**

- A. Judge will hear both sides;
- B. Judge will render a decision;
- C. If Judge rules in Plaintiff's favor, defendant will have five (5) days to appeal judgment to County Court or vacate property.

**IF THE DEFENDANT DOES NOT MOVE WITHIN FIVE (5) DAYS AFTER JUDGMENT OR DOES NOT APPEAL TO COUNTY COURT:**

- A. A Writ of Possession and Restitution may be filed;
- B. Cost of Writ is \$150.00.
- C. Writ of Possession shall order the officer executing the writ to instruct the tenant to remove or allow the landlord, the landlord's agent, or persons acting under the officer's supervision, to remove all personal property claimed to be owned by the landlord and place, or have an authorized person place the removed personal property outside the rental unit at a nearby location, or street and NOT while it is raining, sleeting or snowing.

AFTER YOU ARE SWORN, PRESENT YOUR EVIDENCE IN SEQUENCE FROM BEGINNING TO END;

- A. Date lease or rental agreement began and if agreement is still valid on a month to month basis
- B. Terms of lease including rent per month and date rent is due.
- C. Amount of pure, lived up, unpaid, back rent owed up to the Court date and how it was computed. Late charges, penalties, etc. cannot be pleaded for in eviction suit
- D. Prove that tenant is in violation of lease and why he is in violation.
- E. Date that proper written notice to vacate was given to the tenant.
- F. In summary, state specifically what you are pleading for:  
Example: I am pleading for possession of property and back rent in the amount of \$ \_\_\_\_\_, plus court cost.

NOTE; NEVER ACCEPT FUTURE RENT AFTER THE SUIT IS FILED. IF YOU ACCEPT BACK RENT AFTER THE SUIT IS FILED, BE SURE TENANT IS TOLD THAT YOU ARE PROCEEDING WITH THE EVICTION SUIT.

Forcibles may be dismissed ONLY in open court or by written request. We encourage you as agent or landlord to use the MOTION TO DISMISS included in this packet.

If you have additional PROCEDURAL questions, please contact the court.

NO LEGAL QUESTIONS WILL BE ANSWERED BY THIS OFFICE.

ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:

Justice of the Peace, Pct. 1, 2, 3, or 4

Wharton County Justice of the Peace  
Judge Jeanette Krenek, **Pct. 1**  
P.O. Box 1216 (1017 N. Alabama Road)  
Wharton, Texas 77488  
Phone (979) 532-3941---Fax (979) 531-0758

Wharton County Justice of the Peace  
Judge Cynthia L. Kubicek, **Pct. 2**  
P.O. Box 780 (736 Clubside Drive)  
East Bernard, Texas 77435  
Phone (979) 335-6210---Fax (979)335-6312

Wharton County Justice of the Peace  
Judge Dennis Korenek, **Pct. 3**  
P.O. Box 184 (340 West North)  
Louise, Texas 77455  
Phone (979) 648-2363 ---Fax (979) 648-2359

Wharton County Justice of the Peace  
Judge Tim Drapela, **Pct. 4**  
605 E. Calhoun St.  
El Campo, Texas 77437  
Phone (979) 543-4322---Fax (979) 543-1568

NOTICE TO VACATE FOR NONPAYMENT OF RENT;  
DEMAND FOR POSSESSION; AND  
NOTICE OF TERMINATION OF POSSESSION RIGHTS

\_\_\_\_\_, 20\_\_\_\_

To \_\_\_\_\_  
Name of renter

\_\_\_\_\_  
Address of renter

That this notice is serviced this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
to \_\_\_\_\_ of \_\_\_\_\_,  
Wharton County, Texas.

To \_\_\_\_\_ and all other occupants  
(renter)  
now in possession of the hereinafter described premises:

You are hereby notified to vacate the premises you now occupy, being  
\_\_\_\_\_, Wharton County, Texas, and deliver  
possession to the undersigned within \_\_\_\_\_ days.

Reason for this note: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Should you fail, neglect, or refuse to vacate said premises \_\_\_\_\_ DAYS from service of  
this notice, I will take such legal action as the law requires to put you off said premises. The  
owner demands immediate possession of the premises identified above as soon as possible for  
failure to pay rent on said property; you are directed to remove all your personal property from  
the premises as soon as possible and return the key to the owner.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner address

**EVICTIION LAWSUIT- PLAINTIFF'S ORIGINAL PETITION**

**CAUSE #** \_\_\_\_\_

§In the Justice Court of

§Wharton County, Texas

§Precinct \_\_\_\_\_

***TO THE HONORABLE JUDGE OF THE COURT***

**PLAINTIFF:** \_\_\_\_\_ **PHONE #:** \_\_\_\_\_

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

**CITY** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**AGENT OR ATTORNEY:** \_\_\_\_\_

**VS**

**DEFENDANT(S):** \_\_\_\_\_

**RESIDENCE ADDRESS:** \_\_\_\_\_

**WORK ADDRESS:** \_\_\_\_\_

**ANY OTHER ADDRESS KNOWN TO YOU AT TIME OF FILING:**

\_\_\_\_\_

1. This lawsuit is to evict: \_\_\_\_\_, a tenant who leases

the property located at \_\_\_\_\_,

THE PROPERTY IS WITHIN THE JUSTICE COURT PRECINCT # \_\_\_\_\_ WHARTON COUNTY.

The OWNER/LANDLORD is: \_\_\_\_\_

2. The tenant rented this property on or about \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

and still hold the property. The lease is (check one) ORAL ( ) WRITTEN ( ).

3. The rent is \$ \_\_\_\_\_ per month and is due on the \_\_\_\_\_ day of each month.

4. Plaintiff entered into an agreement with the Defendant for occupancy of lease premises.

Defendant has violated the terms of the agreement by:

( ) A. Failing to pay rent for the period beginning \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

( ) B. Breaching the terms and conditions of the agreement by: \_\_\_\_\_

( ) C. In the event that neither of the above causes are checked, possession of the leased premises is sought by the Plaintiff under the cause of action that the owner wants possession. Plaintiff has given a timely notice to vacate as prerequisite to filing of this lawsuit. Despite this written demand for return of the leased premises, thirty (30) days, Defendant has failed and refused to comply with said demand and is willfully withholding possession of the leased premises at the present time.

5. Written notice to vacate and demand for possession was given on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

In the following manner: ( ) certified mail ( ) delivered in person.

THE COURT IS ASKED TO EVICT THE TENANT AND ORDER THE TENANT TO:

( ) Pay rent owed in the amount of \$ \_\_\_\_\_, plus all rents accruing through the date of judgment.

( ) Pay Court Cost

( ) Pay reasonable attorney's fees of \$ \_\_\_\_\_.

\_\_\_\_\_  
PLAINTIFF

\_\_\_\_\_  
AGENT/ATTORNEY

SAID PLAINTIFF (or his agent/attorney), BEING DULY SWORN TO ME, THE UNDERSIGNED AUTHORITY, UPON OATH SAYS THAT THE FACTS AS STATED IN THE ABOVE INSTRUMENT ARE, WITHIN THE KNOWLEDGE OF SAID AFFIANT, TRUE AND CORRECT.

SWORN AND SUBSCRIBED BEFORE ME, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC/CLERK OF COURT

**CIVIL PROCESS INFORMATION FORM**

**Name of Defendant:** \_\_\_\_\_

**Address, City, State, Zip:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ (Home) \_\_\_\_\_ (Cell)

**Drivers License #** \_\_\_\_\_ **SSN #** \_\_\_\_\_

**Appx. Height** \_\_\_\_\_ **Appx. Weight** \_\_\_\_\_ **Race** \_\_\_\_\_ **Sex** \_\_\_\_\_ **Hair Color** \_\_\_\_\_

**Other Identifying Marks/Features:** \_\_\_\_\_

**Directions to Residence:** \_\_\_\_\_

**Residence Description (Type of residence, color, one or two story):** \_\_\_\_\_

**Vehicle Information:**

(1) **Make:** \_\_\_\_\_ **Model:** \_\_\_\_\_ **Color:** \_\_\_\_\_ **Year:** \_\_\_\_\_

(2) **Make:** \_\_\_\_\_ **Model:** \_\_\_\_\_ **Color:** \_\_\_\_\_ **Year:** \_\_\_\_\_

**Employer Information:**

**Employer:** \_\_\_\_\_

**Address, City, State, Zip:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Plaintiff Name, Address, Telephone Number:** \_\_\_\_\_

**This affidavit is required in all civil filings in this Court. You may take this affidavit to any legally qualified notary public or bring it to my office and we will have you swear to the affidavit before the Judge Or Clerk. Failure to submit this affidavit will invalidate your claim.**

**CASE NO. \_\_\_\_\_**

**AFFIDAVIT PLAINTIFF BEING DULY SWORN ON HIS OATH DEPOSES AND SAYS UNDER PENALTY OF PERJURY THAT DEFENDANT(S)**

- ( ) IS NOT IN THE MILITARY**
- ( ) IS NOT ON ACTIVE DUTY IN THE MILITARY AND/OR**
- ( ) IS NOT IN A FOREIGN COUNTRY ON MILITARY SERVICE.**
- ( ) IS ON ACTIVE MILITARY DUTY AND/OR IS SUBJECT TO THE SERVICEMEMBERS CIVIL RELIEF ACT OF 2003**
- ( ) MILITARY STATUS IS UNKNOWN AT THIS TIME**

**PLAINTIFF \_\_\_\_\_**

**SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.**

\_\_\_\_\_  
**NOTARY PUBLIC IN AND FOR STATE OF TEXAS/  
CLERK OF THE JUSTICE COURT (STRIKE ONE)**

**Penalty for making or using false affidavit – A person who makes or uses an affidavit knowing to be false, shall be fined as provided in title 18 United States Code, or imprisoned for not more than one year, or both.**

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
**PLAINTIFF**

VS.

\_\_\_\_\_  
**DEFENDANT**

***PLAINTIFF'S MOTION TO DISMISS***

COMES NOW THE PLAINTIFF in the above styled and numbered cause and files this MOTION TO DISMISS the above styled case WITHOUT PREJUDICE, in accordance with RULE 162 of the Texas Rules of Civil Procedure, and cites the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FILED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
PLAINTIFF

***ORDER OF DISMISSAL***

Be it therefore ORDERED, ADJUDGED AND DECREED that the PLAINTIFF'S MOTION BE GRANTED. The above styled cause is DISMISSED WITH/WITHOUT PREJUDICE.

SIGNED AND ENTERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
PRESIDING JUDGE/CLERK OF COURT