

**\*SUMMARY DISPOSITION FOR FORCIBLE ENTRY & DETAINER**  
**INFORMATION PACKET\***

**(Plaintiff/Property Owner & Defendant/Unauthorized Occupant/Squatter)**

This information is provided for general informational purposes only and is not intended as legal advice.

**Note:** As an alternative to filing a **forcible entry and detainer** suit with the Court, you **may seek immediate removal** of the person unlawfully occupying your property by filing a request with the sheriff or constable within the precinct of the county in which your property is located. *Tex. Prop. Code. Sec. 24B.001.*

**However, if you choose to file a lawsuit, use the following information:**

**1. Threshold Legal Basis:**

Lawsuits filed as **Forcible Entry & Detainer (FED)** actions come under *Tex. Prop. Code Chap. 24B. – “Removal of Certain Unauthorized Occupants of Real Property.”*

- Defendant(s) entered real property **without legal authority** or **by force**.
- Defendant(s) **refused to surrender possession after the demand**.
- The Plaintiff is the owner of residential real property located at \_\_\_\_\_ (property address) or the agent of the owner.
- The Squatter/Defendant unlawfully entered and occupies a dwelling on the property without the Property Owner's consent.
- The property was not open to the public when the Defendant entered the property.
- The property is not the subject of pending litigation between the Property Owner and the Defendant.
- The Property Owner or the Owner's agent has directed the Defendant to leave the property, and the Defendant has not done so.
- The Defendant is not a current or former tenant of the Property Owner under an oral or written lease and any lease produced by the Defendant is fraudulent.
- The Defendant is not an owner or co-owner of the property and any title to the property that lists the Defendant as an owner or co-owner is fraudulent.
- The Defendant is not an immediate family member of the Property Owner.
- The Defendant did not acquire possession of the property from another person who was, in fact, the squatter.

## 2. Proper Parties to a FED Suit:

- *Plaintiff*: Property Owner
- *Defendant*: Unauthorized Occupant/Squatter
- No landlord-tenant relationship exists between the parties.

## 3. Is there a proper claim being made for FED?

- The Property Owner/Plaintiff must confirm that the Defendant **DID NOT** enter the property with the consent of:
  - A person in actual possession of the property; or was
  - A tenant at will or a tenant at sufferance; or was
  - A person who acquired possession by forcible entry from another person who was a squatter.
  - If any of the above three situations apply, then the suit for forcible entry and detainer is improper. If so, the Property Owner may file a “regular” eviction lawsuit (forcible detainer, not entry).

## 4. Proper Delivery of Notice to Vacate (Tex. Prop. Code Sec. 24.005)

- Because the entry was forcible, Notice to Vacate may be **oral** or **written**.
- **Oral Notice to Vacate** was given by (name of the person making delivery) to the Defendant(s) on a specified date.
- **Written Notice to Vacate** was given by (name of the person making delivery) to the Defendant(s) on a specified date.
- If Written Notice delivered, then it must demand: (a). Immediate Possession; or (b). Vacating the Property by a specified date.
- The following delivery methods for a **Written Notice to Vacate** are approved under the Texas Property Code:
  - Mail (first class, registered, certified, or delivery service with tracking);
  - Hand Delivery to any person occupying the property;
  - Delivery to the inside of premises, in a conspicuous place; or
  - Proof of actual delivery.

## 5. Filing the FED Lawsuit:

- Defendant remained in possession after the deadline specified on the written notice, or on the notice given orally.
- Petition for forcible entry & detainer filed in proper county and precinct in which the property is located.
- The petition may include a Motion for Summary Disposition; if the motion is not filed or granted, then the case proceeds to trial as usual.

## **6. Summary Disposition Eligibility:**

The Court may grant a Motion for Summary Disposition without the need for a trial if the following apply:

- Notice to Vacate was given to the unauthorized occupant(s);
- The motion and petition show **no genuinely disputed facts that would prevent a judgment in favor of the plaintiff;**
- There was **proper service** on the occupant; and
- The occupant **did not answer**, or the **answer did not show a genuinely disputed fact.**

## **7. Court Action & Timing:**

- If no genuinely disputed facts, then the Court may rule without a trial.
- If there are genuinely disputed facts, then the Court will hear the case at Trial within 10 to 21 days from initial filing. (Refer to the Court date provided in your citation).

## **8. Relief Requested: Choose one of the following:**

Plaintiff pleads for possession of the Property and asks the court to set any appeal amount at the greater of \$250 or the fair market value as determined by the court.

## **9. Recovery of Rent**

- Justice Court or County Court shall disburse the rent paid into the Court Registry on request at any time during the appeal or after the end of the appeal process.
- In case of any questions about rent recovery, please contact the Court.

\* All parties must submit all relevant documents into evidence during trial, and/or when filing or responding to a suit for summary disposition under forcible entry and detainer.

\*\* Check any local that may apply for the timelines for submission of evidence to the Court and the opposing party.