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Rusk County Justices of the Peace

Judge Jana Ross Enloe
Justice of the Peace, Precinct Five
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Judge Darlene Childress
Justice of the Peace, Precinct 4
7933 State Hwy 42 South
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**FIRST MODIFICATION OF STANDING ORDER REGARDING CORONAVIRUS
DISEASE (COVID-19) MITIGATION TO ALL RUSK COUNTY JUSTICES OF THE
PEACE (JUSTICE COURT) (Order No. 02)**

1. The Justices of the Peace in Rusk County issue this order pursuant by the authority granted by law and by all emergency orders regarding the COVID-19 state of disaster issued by the Supreme Court of Texas and Court of Criminal Appeals of Texas. This order is in response to the "TWELFTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER" issued by the Supreme Court of Texas. The Rusk County Justices of the Peace issue the following order to protect the community and limit risk to COVID-19.
2. In an attempt to consolidate all COVID-19 related standing orders from the Rusk County Justices of the Peace, and provide relevant changes to dates in previous orders in one document, this order replaces all previous COVID-19 related standing orders from the Rusk County Justices of the Peace.
3. All scheduled court proceedings except for essential court proceedings will be reset to a date after June 1, 2020.
4. "Essential court proceedings" are defined as: writs of re-entry; writs of retrieval; writs of restoration; magistration of defendants in custody and of fugitives from justice (in or out of custody); death certificates, or burial transit permits; repair and remedy cases that materially affect the physical health or safety of a tenant; residential eviction for threat to person; and any proceedings necessary to enforce a governmental entity's response to a COVID-19 declaration of state of disaster.

5. No eviction settings (both residential and commercial) will be held until after June 1, 2020, except regarding residential evictions for threat to person. No writs of possession will be issued by the Justice Court, nor the posting of the written warning required by § 24.0061(d)(1) of the Property Code and the execution of the writ of possession until June 1, 2020, except regarding residential evictions for threat to person.

a. New filings may be accepted, but the time periods in Texas Rule of Civil Procedure 510.4(a)(10) are suspended, and issuance and service of citation may not occur until after May 18, 2020. The Justice Court may suspend the time periods in Texas Rule of Civil Procedure 510.4(a)(10) until 30 days after the Governor's state of disaster in response to the COVID-19 pandemic has been lifted.

b. Residential eviction for threat to person:

i. The term "residential eviction for threat to person" in this order shall be defined as residential eviction cases where it is shown that the actions of the tenant, or the tenant's household members or guests, pose an imminent threat of (i) physical harm to the plaintiff, the plaintiff's employees, or other tenants, or (ii) criminal activity.

ii. In such cases described in Paragraph 5(b)(i) of this order, the stay of proceedings ordered in Paragraph 3 does not apply, and for the cases described in Paragraph 5(b)(i), the normal deadlines and timelines, including appeal deadlines, required by the Texas Property Code, Texas Rules of Civil Procedure, and any applicable law prior to all COVID-19 orders apply, except in the Justice Court's discretion in order to prioritize public health and avoid risk to court officers/staff and members of the public.

iii. The procedures for filing a residential eviction for threat to person are modified from current procedures as follows:

A. A plaintiff that is filing a residential eviction for threat to person must file with the "Rusk County Justice Court's Sworn Complaint for Forcible Detainer for Threat to Person or For Cause" document that is attached to this order. The Justice Court shall not set this case

for hearing unless the "Rusk County Justice Court's Sworn Complaint for Forcible Detainer for Threat or For Cause" is filed.

B. After the case is filed with the Justice Court, the Justice of the Peace as soon as practicable shall review the "Rusk County Justice Court's Sworn Complaint for Forcible Detainer for Threat or For Cause" and if the complaint makes a prima facie case that it is a residential eviction for threat to person, then the Justice of the Peace shall sign an order setting the case for hearing. Each Justice Court will develop a procedure to notify the litigants how to participate. If a prima facie case is not made, then the Justice Court shall set the case after June 1, 2020 like all other eviction cases.

C. The Constables of Rusk County are ordered to use their best discretion, prioritizing public health and deputy constable safety, in serving court papers and executing writs in this case and may delay serving court papers and executing writs if necessary.

D. Setting, hearing, and any post judgment remedies (including appeal deadlines) shall follow the time schedule as outlined in the Texas Property Code and Texas Rules of Civil Procedure, except when not practicable in accordance with the Justice Court's COVID-19 mitigation plan and no tolling of time shall take place on these cases.

E. Any judgment for residential eviction for threat to person must be announced on the same trial and the Justice of the Peace must inform the losing party of the process for submitting an appeal while complying with the Justice Court's requirement of filing only by email or appointment during the COVID-19 state of emergency.

F. During the trial, the Justice of the Peace shall first determine if the actions of the tenant, or the tenant's household members or guests,

pose an imminent threat of (i) physical harm to the plaintiff, the plaintiff's employees, or other tenants, or (ii) criminal activity. Only after such affirmative finding can the Justice of the Peace then consider the grounds for eviction. If no affirmative finding is made then no decision as to the grounds for eviction shall be determined, and the Justice of the Peace shall abate the proceeding until after June 1, 2020, and shall not render a final judgment until after June 1, 2020.

G. If the Justice of the Peace during the trial finds that the filing of this case and allegation of threat to others was a pretext in order for the Justice Court to hear an eviction case circumventing the Court's delay of hearing eviction cases until after June 1, 2020, then the Justice Court can require the Plaintiff to show cause as to why the filing was not pretextual. The Justice Court may sanction the Plaintiff for a bad faith filing, awarding the Defendant all costs for inconvenience, harassment, out-of-pocket expenses incurred or caused by the subject of litigation, and attorney's fees; and/or ordering the Plaintiff to pay a penalty into the Court. In addition, the Justice Court can find the Plaintiff in contempt of court after a show cause hearing with such punishment being a fine and/or days in jail.

6. This order does not diminish the Justices of the Peace's ability to continue to issue judgments, orders, and rulings by submission if already authorized by law to do so for non-eviction cases.
7. For traffic/Class C citations with an appearance date prior to July 15, 2020, the appearance date will be extended. Defendants should check the court's website weekly for updates and email the Court any updated mailing address. This applies to cite-and-release charges and summonses for charges other than Class C misdemeanors as well.

8. No warrants based on failing to appear or for violating a promise to appear to a Justice Court for a traffic/Class C citation, cite-and-release charge, or a summons will be issued until July 15, 2020.
9. In order to alleviate the threat of COVID-19 in County Jails, the Justices of the Peace temporarily suspend active warrants for all misdemeanor Class C offenses from their courts, until July 15, 2020. All the requirements and conditions of the warrants previously signed by the Justices of the Peace remain in effect but are suspended during this state of emergency. For the effective suspension, the Rusk County Sheriff's Office, Rusk County Constables, and all other law enforcement agencies are directed to relate this order to all law enforcement officers requesting confirmation of warrants, so that they are aware not to bring Class C defendants to the jail.

Therefore, all warrants for misdemeanor Class C offenses from the Justices of the Peace are temporarily suspended until July 15, 2020. For the duration of this suspension, the Rusk County Sheriff's Office is ordered to not accept a defendant who solely has a Class C misdemeanor warrant from the Rusk County Justices of the Peace.

10. The Constables of Rusk County are authorized that they may not serve Justice Court papers if it is in their best discretion based on the public's health and deputy constable's safety until May 18, 2020. Failure to serve papers based on this order shall not be considered by any court with regard to statute of limitations or diligent service analysis. The Constables of Rusk County must continue to serve Justice Court papers with regard to essential court proceedings in all instances.
11. Each Justice Court is authorized to limit building access to comply with any recommendations/orders from county public health officials regarding limiting the number of people in a public space or room, including but not limited to screening whether a person's business with the Justice Court falls into essential court business and limiting the hours a Justice Court is open to the public. If a Justice Court limits the hours it is open to the public, notice of such limitations shall be posted on the Justice Court's official website and at its main entrance.

12. Deadlines:

- a. Any deadline for filing (including statute of limitations calculation), answers to a lawsuit, or service of any civil case (except a case for residential eviction for threat to person) that falls on a day between March 13, 2020 and June 1, 2020 is extended until July 15, 2020.
- b. Any deadline for perfecting appeal or for other appellate proceeding (except in a case for residential eviction for threat to person) is tolled from March 19, 2020 to May 8, 2020.
- c. Any deadlines regarding appeal/post-judgment remedies for cases involving essential court proceedings are not tolled and shall follow all time periods that were normally mandated prior to March 19, 2020.

13. For all residential eviction cases filed on or after March 27, 2020, in order for the Court to comply with the CARES Act requirement regarding evictions and in order to receive competent testimony/evidence on whether the CARES Act applies to a property consistent with Texas Rules of Civil Procedure 500.6, all Travis County Justice Court will require the filing of a sworn affidavit/or unsworn declaration under penalty of perjury verifying the status of whether the property the eviction case is seeking to recover possession of is a "covered dwelling" under the CARES Act.

- a. No judgement in an eviction case shall be issued in favor of the plaintiff until the filing of a sworn affidavit/or unsworn declaration under penalty of perjury verifying the status of whether the property the eviction case is seeking to recover possession of is a "covered dwelling" under the CARES Act is filed with the Justice Court.
- b. The sworn affidavit/or unsworn declaration under penalty of perjury verifying the status of whether the property the eviction case is seeking to recover possession of is a "covered dwelling" under the CARES Act may be filed beginning at the time of filing the plaintiff's petition until the conclusion of the plaintiff's case-in-chief.
- c. Attached to this order is a sample sworn affidavit/or unsworn declaration under penalty of perjury verifying the status of whether the property the eviction case is seeking to recover possession of is a "covered dwelling" under the CARES Act. Consistent with Texas Rules of Procedure 507.2, if a plaintiff wishes to use another form to comply with

this order, the substantive information contained in the sample must be contained in the plaintiff's form.

This order is in effect immediately and shall remain in effect until modified/rescinded by the Rusk County Justices of the Peace. The time periods in this order may be extended in a subsequent order if required.

The undersigned Justice of the Peace has the necessary authority and authorization to sign this order on behalf of the five Justices of the Peace in Rusk County.

Signed on May 14, 2020 at 1:46 PM



Judge Jana Enloe
On behalf of the Justices of the Peace in Rusk County, TX



The "RUSK COUNTY JUSTICE COURT'S SWORN COMPLAINT FOR FORCIBLE DETAINER FOR THREAT TO PERSON OR FOR CAUSE" document (3 pages) and the "VERIFICATION OF COMPLIANCE WITH SECTION 4224 OF THE CARES ACT" sample document are attached to this order (3 pages)

Cause No. _____ Hearing set for _____ at _____ AM/PM
RUSK COUNTY JUSTICE COURT'S SWORN COMPLAINT FOR FORCIBLE DETAINER FOR THREAT TO
PERSON OR FOR CAUSE

In The Justice Court, RUSK County, Texas, PCT. ____

All sections are required to be filed out if applicable.

TO THE HONORABLE JUDGE OF THE COURT: Justice of the Peace

PLAINTIFF(S),

E-MAIL (REQUIRED) _____ PHONE _____

ADDRESS _____

[] AGENT [] ATTORNEY _____

E-MAIL (REQUIRED) _____ PHONE _____

ADDRESS _____

DEFENDANT(S)

E-MAIL (REQUIRED if available) _____ PHONE _____

ADDRESS _____

OTHER ADDRESS WHERE DEFENDANT MAY BE FOUND _____

1. This is a lawsuit to evict _____ a tenant who
leases the property located at _____.
This property is within Justice Court Precinct _____ [INSERT PRECINCT NUMBER]
of RUSK County.
The Owner/Landlord is _____.
2. The Defendant(s) rented this property on or about _____ and
still holds the property. The lease is:

[] Written (copy on file with Court) [] Oral

The Plaintiff claims the Defendant(s) should be evicted because:

[REQUIRED] The actions of the tenant, or tenant's household members or guests,
pose an imminent threat of (i) physical harm to the plaintiff, the plaintiff's
employees, or tenant, or (ii) criminal activity that poses an imminent threat of
physical harm to the personal safety of the plaintiff, the plaintiff's employees,
or other tenants: (state the nature in specificity as to the imminent threat or
criminal activity and reason why the Defendant should be evicted)

[] **Unpaid rent.** Defendant(s) failed to pay rent for the following time period(s): _____. The amount of rent claimed as of the 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.

[] **Other lease violations.** Defendant(s) breached the terms of the lease (other than by failing to pay rent) as follows:

[] **Holdover.** Defendant(s) are unlawfully holding over by failing to vacate at the end of the rental term or renewal or extension period, which was the day of _____, 20____.

3. Written notice to vacate and demand for possession was given on (date) _____
in the following manner **and a copy is attached** []

[] Certified Mail [] Regular Mail
[] Delivery in Person [] Other - Explain

4. The rent is \$ _____ per month and is due on the _____ of each month.
(Amount paid by Tenant \$ _____ Amount paid by Government Agency \$ _____)

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

THE COURT IS ASKED TO EVICT THE DEFENDANT(S) AND ORDER DEFENDANT(S) TO:

- ☐ Pay rent owed in the amount of \$_____ plus all rents accruing through the date of judgment
- ☐ Pay court costs
- ☐ Pay reasonable attorney's fees

Alleging a false imminent threat or criminal activity in this filing as a pretext to circumvent the Court's delay in hearing eviction cases until after June 1, 2020 will subject the filer to sanctions - awarding the Defendant all costs for inconvenience, harassment, out-of-pocket expenses incurred or caused by the subject of litigation, and attorney's fees; and/or ordering the filer to pay a penalty into the Court. In addition, the Court can find the Plaintiff in contempt of court after a show cause hearing with such punishment being a fine and/or days in jail. DO NOT FILE THIS COMPLAINT IF IT IS PRETEXTUAL OR FALSE.

Plaintiff's Signature

Authorized Attorney/Agent Signature

Said Plaintiff (or his agent or attorney), being duly sworn by 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 TO AND SUBSCRIBED BEFORE ME, this ____ day of _____, 20__ to
certify which; witness my hand and seal of office.

Notary Public in and for the State of Texas

Civil Court Clerk, JP _____

CARES Act
Public Law 116-136

Sec. 4024 TEMPORARY MORATORIUM ON EVICTION FILINGS.

(a) DEFINITIONS.—In this section:

- (1) COVERED DWELLING.**—The term “covered dwelling” means a dwelling that—
 - (A)** is occupied by a tenant—
 - (i) pursuant to a residential lease; or
 - (ii) without a lease or with a lease terminable under State law; and
 - (B)** is on or in a covered property.
 - (2) COVERED PROPERTY.**—The term “covered property” means any property that—
 - (A)** participates in—
 - (i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a))); or
 - (ii) the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r); or
 - (B)** has a—
 - (i) Federally backed mortgage loan; or
 - (ii) Federally backed multifamily mortgage loan.
 - (3) DWELLING.**—The term “dwelling”—
 - (A)** has the meaning given the term in section 802 of the Fair Housing Act (42 U.S.C. 3602); and
 - (B)** includes houses and dwellings described in section 803(b) of such Act (42 U.S.C. 3603(b)).
 - (4) FEDERALLY BACKED MORTGAGE LOAN.**—The term “Federally backed mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—
 - (A)** is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and
 - (B)** is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.
 - (5) FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.**—The term “Federally backed multifamily mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—
 - (A)** is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and
 - (B)** is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.
- (b) MORATORIUM.**—During the 120-day period beginning on the date of enactment of this Act, the lessor of a covered dwelling may not—
 - (1) make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession of the covered dwelling from the tenant for nonpayment of rent or other fees or charges; or
 - (2) charge fees, penalties, or other charges to the tenant related to such nonpayment of rent.
- (c) NOTICE.**—The lessor of a covered dwelling unit—
 - (1) may not require the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate; and
 - (2) may not issue a notice to vacate under paragraph (1) until after the expiration of the period described in subsection (b).

CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§
§
§
§
§
§

IN THE JUSTICE COURT

PRECINCT NO. _____

_____ COUNTY, TEXAS

VERIFICATION OF COMPLIANCE
WITH SECTION 4024 OF THE CARES ACT

My name is: _____

First

Middle

Last

I am (check one) ☐ **the Plaintiff** or ☐ **an authorized agent of the Plaintiff** in the eviction case described at the top of this page. I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

1. Verification:

- a. Plaintiff is seeking to recover possession of the following property:

Name of Apartment Complex (if any)

Street Address & Unit No. (if any)

City

County

State ZIP

I verify that this property is not a "covered dwelling" as defined by Section 4024(a)(1) of the CARES Act. The facts on which I base my conclusion are as follows.

(Please identify which data base or the other information you have used to determine that the property does not have a federally backed mortgage loan or federally backed multifamily mortgage loan.)

(If the property does not have a federally backed mortgage loan or federally backed multifamily mortgage loan, please state whether (1) the property is a Low Income Housing Tax Credit

(LIHTC) property, (2) the property is federally subsidized under any HUD program, or (3) the property leases to persons with Section 8 vouchers.)

2. **Declaration or Notary:** Complete only one of the two following sections:

- a. **Declaration:** I declare under penalty of perjury that everything in this verification is true and correct.

My name is: _____

First Middle Last

My birthdate is: ____/____/____
Month Day Year

My address is:

Street Address & Unit No. (if any) City County State ZIP

Signed on ____/____/____ in _____ County, Texas.
Month Day Year

Your Signature

OR

- b. **Notary:** I declare under penalty of perjury that everything in this verification is true and correct

Your Printed Name

Your Signature (sign only before a notary)

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

CLERK OF THE COURT OR NOTARY