

TEXAS JUSTICE COURT TRAINING CENTER

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New Justices of the Peace Stage III

NEW RULES OF JUSTICE COURT

Presented by:

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Welcome to the New Rules

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NEW RULE ORDER

- Effective August 31, 2013 (HB 1263)
- Process of developing rules
- All cases will be under new rules 8/31/13 unless “unfeasible” or “injustice”

ADMINISTRATIVE RULES

RULE 507 – ADMINISTRATIVE RULES

Plenary Power

- 507.1
- Justice court loses plenary power 21 days after the later of the judgment or the overruling of a motion to reinstate, to set aside a default j/m, or for new trial
- Justice court loses plenary power when an appeal is perfected
- “Plenary Power” – ability to act on a case

Forms

- 507.2
- Court may provide forms for parties to use but should not assist them in filling out forms and may not require parties to use the court’s forms.

Docket

- 507.3 – must contain:
- the title of all suits commenced before the court;
- the date when the first process was issued against the defendant, when returnable, and the nature of that process;
- the date when the parties, or either of them, appeared before the court, either with or without a citation;
- a description of the petition and any documents filed with the petition;
- every adjournment, stating at whose request and to what time;
- the date of the trial, stating whether the same was by a jury or by the judge;
- the verdict of the jury, if any; (cont.)

Docket

- 507.3 – must contain:
- the judgment signed by the judge and the date the judgment was signed;
- all applications for setting aside judgments or granting new trials and the orders of the judge thereon, with the date;
- the date of issuing execution, to whom directed and delivered, and the amount of debt, damages and costs and, when any execution is returned, the date of the return and the manner in which it was executed; and
- all stays and appeals that may be taken, and the date when taken, the amount of the bond and the names of the sureties.
- The judge must also keep copies of all documents filed; other dockets, books, and records as may be required by law or these rules; and a fee book in which all costs accruing in every suit commenced before the court are taxed.
- These documents may be maintained electronically

Issuance of Writs

- 507.4
- Same as old rule, must be styled “The State of Texas”; signed by the judge; directed to the party or person upon whom it will be served; made returnable to the court
- Must note time/date of issuance

ADMINISTRATIVE RULES

RULE 500 – GENERAL RULES

New Rules

- 500.1 – Construction
 - Gender neutrality, etc
- 500.2 – Definitions
 - Aimed at assisting pro se litigants understand the system

Types of Cases

- 500.3
 - Small Claims Case: Normal case for \$10k or less, including atty fees, excluding costs
 - Debt Claim Cases: Brought to recover debt (credit card cases)
 - Repair & Remedy Cases: When a landlord fails to remedy a condition where they have a duty
 - Eviction Cases: Recover possession of real property

Application & Examination

- 500.3
 - District & County Court rules do NOT apply unless necessary or unless otherwise specified
 - All courts must have rules available for examination, either paper or electronic
 - Making system simpler and friendlier

Representation

- 500.4
- Individuals may be represented by
 - Themselves; an attorney; or an authorized agent in eviction cases only
- Corporations may be represented by
 - An attorney; an employee of the corporation; or an authorized agent in eviction cases only

Assisted Representation

- The court may, for good cause, allow an individual representing himself or herself to be assisted in court by a family member or other individual who is not being compensated.
- Court can determine what “assisting” means case by case, but this does NOT allow unauthorized practice of law.

Computation of Time

- 500.5
 - Calendar days
 - Exclude the day of the triggering event (petition filed, etc)
 - Extends to next business day if ends on Sat, Sun, holiday OR day court closes before 5PM
 - Mailbox rule applies (10 day receipt)
 - Judge may extend for good cause, except new trial and appeal timelines

Judge Develops the Facts

- 500.6
 - In order to develop the facts of the case, a judge may question a witness or party and may summon any person or party to appear as a witness when the judge considers it necessary to ensure a correct judgment and a speedy disposition.
 - Ensure fairness and equity over procedural trapdoors

The Rule & Subpoenas

- 500.7 – allows “The Rule” on party or court’s motion
- 500.8 – allows subpoenas in the same manner as has always been (served by anyone over 18 who is not a party, 150 mile range, etc)

Discovery

- 500.9
- Pretrial Discovery
 - Limited to what is reasonable and necessary
 - Party must file motion, no hearing needed unless responding party requests one, must not serve on other side until judge approves
 - Allows sanctions such as dismissal or orders to pay discovery costs for failure to comply once the judge approves the discovery

Discovery

- 500.9
- Postjudgment Discovery
 - Doesn't have to be filed/approved
 - Must give at least 30 days for response
 - Hearing must be held if there is an objection to the discovery
 - Judge at hearing may approve, reform, or deny the discovery

PRETRIAL PROCEDURE

RULE 501 – CITATION AND SERVICE

Citation

- 501.1
 - Shall issue upon filing of petition
 - List of things that must be in the citation
 - New warning for the defendant, including new answer timeframe
 - Plaintiff must provide enough copies for all defendants. If they fail to do so, they may be charged for the additional needed copies

Service

- 501.2
 - Same restrictions as before on who may serve
 - Certified or registered mail now additionally must be restricted delivery with a return receipt (signed by defendant) to be valid service
 - Alternative service may now be requested by the individual attempting service, not just the party

Return

- 501.3
 - Same as previous rule adopted recently regarding return (actual citation not needed; sworn or signed under penalty of perjury if by process server)
 - On file for 3 days excluding the day of filing AND the day of judgment before it will support a default judgment

Service Other Than Citation

- 501.4
- Any other paper may be served on the other party by
 - Personal delivery, mail, courier, or fax
 - Email ONLY if party has consented to email service
 - As otherwise directed by the court
 - If served by mail, adds 3 days to response time.
 - All parties must have at least 3 days notice of any hearing requested by a party (default?)

PRETRIAL PROCEDURE

RULE 502 – INSTITUTION OF SUIT

Written Pleadings

- 502.1
 - All pleadings, motions, etc, MUST be in writing and signed UNLESS it is one made during trial or at a hearing where ALL parties are present

Petition

- 502.2
- Petition must contain
 - the name of the plaintiff;
 - the name, address, telephone number, and fax number, if any, of the plaintiff's attorney, if applicable, or the address, telephone number, and fax number, if any, of the plaintiff;
 - the name, address, and telephone number, if known, of the defendant;
 - the amount of money, if any, the plaintiff seeks;
 - a description and claimed value of any pers. property the plaintiff seeks;
 - a description of any other relief requested;
 - the basis for the plaintiff's claim against the defendant; and
 - if the plaintiff consents to email service of the answer and any other motions or pleadings, a statement consenting to email service and email contact information.

Justice Court Civil Info Sheet

- A justice court civil case information sheet, in the form promulgated by the Supreme Court of Texas, must accompany the filing of a petition and must be signed by the plaintiff or the plaintiffs attorney. The justice court civil case information sheet is for data collection for statistical and administrative purposes and does not affect any substantive right. The court may not reject a pleading because the pleading is not accompanied by a justice court civil case information sheet.
- Sheet is attached at back of rules order

Fees and Statements of Inability to Pay

- 502.3
- Any party seeking relief must either pay the filing fees or file a statement of inability to pay
- The statement must contain complete information as to the party's identity, nature and amount of governmental entitlement income, nature and amount of employment income, other income (interest, dividends, etc.), spouse's income if available to the party, property owned (other than homestead), cash or checking account, dependents, debts, and monthly expenses.

Fees and Statements of Inability to Pay

- 502.3
- The statement must contain the following: "I am unable to pay court fees. I verify that the statements made in this statement are true and correct." The statement must be sworn before a notary public or other officer authorized to administer oaths or be signed under penalty of perjury.
- A low- or no-cost atty may instead file an IOLTA certificate, which may not be contested

Fees and Statements of Inability to Pay

- 502.3
- May be contested within 7 days of filing by the defendant, if so must hold a hearing
- Judge may examine the statement and hold hearing even if not contested by defendant
- Filer has the burden of proof at the hearing
- If judge denies statement, must give order to pay fees by a specified deadline

Venue & Motions to Transfer

- 502.4
- Gives general venue rules and refers parties to CPRC Ch. 15 for a full discussion of venue
- MTV must be filed before trial, no more than 21 days after the defendant answers the suit
- Must specify county and precinct, if not, judge must give them 7 days to cure the defect. If they fail to cure, motion is denied
- Must hold a hearing if a proper MTV is filed
- No trial until at least 14 days after MTV hearing
- If transferred, party has 14 days to pay fees/statement of inability to pay in the new court or dismissed w/o prejudice
- May always be transferred by consent of both parties

Fair Trial Venue Change

- Party can make a sworn motion that they cannot receive a fair trial. Must be at least 7 days before trial, unless good cause shown. Must specify if they object to the precinct or the judge. If precinct, must be transferred to nearest JP in the county not subject to same issue. If judge, judge must exchange benches or county judge appoint a visiting judge.
- Eviction cases may only get new judge, may NOT be transferred.
- Only one of these motions is allowed per party per case

Answer

- 502.5
- Must be written and contain defendant's name and contact info, and if they consent to email service, a valid address for service.
- General denial is sufficient to put all at issue
- Must be noted on court's docket
- Due on 14th day after service, subject to Rule 500.5, unless served by publication, then 42nd

Counterclaim, Cross-Claim, 3rd Parties

- Counterclaim
 - No citation or answer needed. Petition must be served on plaintiff as provided by 501.4, and fee/statement of inability required
- Cross-Claim
 - Citation needed if party hasn't filed petition or answer. Fee/statement required
- 3rd Party claim
 - Citation and fee/statement required, just like brand new case

Amending & Clarifying Pleadings

- 502.7
 - Party may always modify pleadings up to 7 days before trial
 - Must be filed with court and served on all parties as provided by 501.4
 - Court may allow modification less than 7 days before trial if no unfair surprise
 - Party may make a motion asking court to order clarification of pleadings if they are unclear; may hold hearing and order modification by a set time

TRIAL PROCEDURE

RULE 503 – DEFAULT JUDGMENT;
PRE-TRIAL MATTERS; TRIAL

Default Judgment

- 503.1
- Judge must ensure service occurred, may hold hearing
- ***Claim Based on Written Document.*** If the claim is based on a written document signed by the defendant, and a copy of the document has been filed with the court and served on the defendant, along with a sworn statement from the plaintiff that this is a true and accurate copy of the document and the relief sought is owed, and all payments, offsets or credits due to the defendant have been accounted for, the judge must render judgment for the plaintiff in the requested amount, without any necessity for a hearing.
- The plaintiff's attorney may also submit affidavits supporting an award of attorney fees to which the plaintiff is entitled, if any.

Default Judgment

- 503.1
- Otherwise, a plaintiff who seeks a default judgment against a defendant must request a hearing, orally or in writing. The plaintiff must appear at the hearing and provide evidence of its damages. If the plaintiff proves its damages, the judge must render judgment for the plaintiff in the amount proven. If the plaintiff is unable to prove its damages, the judge must render judgment in favor of the defendant.
- With the permission of the court, a party may appear at a hearing by means of telephone or an electronic communication system.

Default Judgment

- 503.1
- No default judgment if the def files an answer or “otherwise appears” before j/m rendered
- If defendant fails to show for trial, plaintiff may put on evidence of damages AND liability and j/m may be rendered
- Plaintiff must give address for defendant against whom j/m rendered, and court must IMMEDIATELY send notice to the defendant of the judgment

Summary Disposition

- 503.2
- Party may file sworn motion that there are no disputed facts or no evidence supporting the other party’s claim or defense
- Other side MAY file a written response
- No ruling until at least 14 days after filing
- Must have hearing unless all parties waive it, and parties may give evidence at the hearing

Settings; Notice; Postponement

- 503.3
- After answer, should be set on the docket. Must be at least 45 days notice of setting unless in interest of justice. Reasonable notice of all subsequent settings.
- May file motion for postponement at any time. Judge may postpone for good cause

Pretrial Conference

- 503.4
- If all parties have appeared, court may on its own motion or at parties request have pretrial conference. Appropriate issues include:
- discovery;
- the amendment or clarification of pleadings;
- the admission of facts and documents to streamline the trial process;
- a limitation on the number of witnesses at trial;
- the identification of facts, if any, which are not in dispute between the parties;
- mediation or other alternative dispute resolution services;
- the possibility of settlement;
- trial setting dates that are amenable to the court and all parties;
- the appointment of interpreters, if needed;
- the application of a Rule of Civil Procedure not in Part V or a Rule of Evidence; and
- any other issue that the court deems appropriate.

Alt Dispute Resolution

- 503.5
- The policy of this state is to encourage the peaceable resolution of disputes through alternative dispute resolution, including mediation, and the early settlement of pending litigation through voluntary settlement procedures. For that purpose, the judge may order any case to mediation or another appropriate and generally accepted alternative dispute resolution process.
- No eviction case may be set for pretrial conference or ADR if it would cause delay in the trial

Trial

- 503.6
- Judge must call all cases set on the docket
- If no plaintiff, may postpone or dismiss
- If no def't, may postpone or take evidence and award the appropriate judgment

TRIAL PROCEDURE

RULE 504 - JURY

Jury Trial Demanded

- 504.1
- Any party can demand a jury in writing up to 14 days before trial. Judge can allow late request for good cause shown
- Must pay \$22 jury fee or statement of inability
- If demand withdrawn, remains on jury docket unless all parties agree. No refund of fee

Empaneling the Jury

- 504.2
- Provides method of drawing names & oath
- Judge, parties and attys may question the jurors, but not ask how they will rule
- Judge has discretion to allow/disallow questions and set timeframe
- Parties may challenge for cause any juror
- Parties then get 3 strikes for any reason other than membership in protected class
- First 6 remaining on list are jury, administered oath
- May round up more jurors if less than 6 are left, who will then be questioned as before

Jury Charge; Verdict for Specific Articles

- 504.3
 - Jury must not be charged (explained the law)
- 504.4
 - If the jury awards specific articles of personal property, the jury must include in the verdict their assessment of the value of each article of property, according to the evidence presented

POST-TRIAL PROCEDURE

RULE 505 – JUDGMENT; NEW TRIAL

Judgment

- 505.1
- If case tried by jury, judge may render j/m on the verdict, or if the verdict is contrary to the law or evidence, render j/m notwithstanding the verdict
- Judgment must be announced in open court and noted on the docket

Judgment

- 505.1
- A judgment must:
 - clearly state the determination of the rights of the parties in the case;
 - state who must pay the costs;
 - be signed by the judge; and
 - be dated the date of the judge's signature
 - Shall award costs to prevailing party
 - If J/M for specific articles, award articles if found, must state assessed value by jury or judge

Enforcement of Judgment

- 505.2
- Enforceable in same manner as county and district courts (garnishment, execution, turnover, etc)
- Judgment for specific articles can be enforced by a special writ of execution, as well as contempt

Motion to Reinstate; Set Aside Default; New Trial

- 505.3
- Party may file written motion w/in 14 days of dismissal or judgment. Judge may approve reinstatement or set aside of default for good cause shown. May approve new trial if justice was not done in the first trial, but only one new trial to any party.
- Must be served on other parties by next business day
- Automatically overruled on 21st day after judgment.

POST-TRIAL PROCEDURE

RULE 506 – APPEAL

Appeal

- 506.1
- Party has 21 days from j/m or overruling of 505.3 motion to appeal
- Plaintiff appeal bond is \$500, defendant is 2x judgment. May post cash in lieu of bond.
- If statement of inability, may be contested by def't or court within 7 days, if contest is appealed, county court hears contest de novo w/in 14 days. If denied, party has 5 days to post a regular appeal bond or cash.

Appeal

- 506.1
- Notice of a statement of inability to pay must be sent from the court to the appellant within one business day.
- Appellant must notify all parties of the appeal within 7 days.
- Party must be given 7 days to correct any irregularities or defects in their appeal.
- Appellant must pay costs in county court as provided in Rule 143a

Record on Appeal; Trial de Novo

- 506.2
 - Court must send up a record of all docket entries, original papers and bill of costs on perfected appeal
- 506.3
 - Appeal in the county court is de novo, as if the first trial never occurred

Writ of Certiorari

- 506.4
 - Order from county court to justice court to halt all proceedings and send a case up to them
 - Party has 90 days after j/m to apply to county ct
 - Approved if justice court had no jurisdiction OR if injustice was done in the suit through no inexcusable neglect on the part of the applicant
 - Non-applicable in eviction cases

DEBT CLAIM CASES

RULE 508 – DEBT CLAIM CASES

Applicability

- 508.1
- Rule 508 applies to a claim for the recovery of a debt brought by an assignee of a claim, a financial institution, a debt collector or collection agency, or a person or entity primarily engaged in the business of lending money at interest.
- Rule 508 controls when there is conflict with the regular justice court rules

Petition

- 508.2
- In addition to info in 502.2, must contain:
- In a claim based upon a credit card, revolving credit, or open account, the petition must state:
 - (A) the account name or credit card name;
 - (B) the account number (which may be masked);
 - (C) the date of issue or origination of the account, if known;
 - (D) the date of charge-off or breach of the account, if known;
 - (E) the amount owed as of a date certain; and
 - (F) whether the plaintiff seeks ongoing interest.

Petition

- 508.2
- In addition to info in 502.2, must contain:
- In a claim based upon a promissory note or other promise to pay a specific amount as of a date certain, the petition must state:
 - (A) the date and amount of the original loan;
 - (B) whether the repayment of the debt was accelerated, if known;
 - (C) the date final payment was due;
 - (D) the amount due as of the final payment date;
 - (E) the amount owed as of a date certain; and
 - (F) whether plaintiff seeks ongoing interest.

Petition

- 508.2
- If a plaintiff seeks ongoing interest, the petition must state:
 - (A) the effective interest rate claimed;
 - (B) whether the interest rate is based upon contract or statute; and
 - (C) the dollar amount of interest claimed as of a date certain.

Petition

- 508.2
- If the debt that is the subject of the claim has been assigned or transferred, the petition must state:
 - (A) that the debt claim has been transferred or assigned;
 - (B) the date of the transfer or assignment;
 - (C) the name of any prior holders of the debt; and
 - (D) the name or a description of the original creditor.

Default Judgment

- 508.3
- If the defendant does not appear by the answer date, court must render default j/m upon plaintiff's proof of damages.
- Evidence of plaintiff's damages must either be attached to the petition and served on the defendant or submitted to the court after defendant's failure to answer by the answer date

Default Judgment

- 508.3
- Evidence of plaintiffs damages may be offered in a sworn statement or in live testimony. The evidence offered may include documentary evidence. Evidence of plaintiff's damages must either be attached to the petition and served on the defendant or submitted to the court after defendant's failure to answer by the answer date

Default Judgment

- 508.3
- The amount of damages is established by evidence:
- (A) that the account or loan was issued to the defendant and the defendant is obligated to pay it;
- (B) that the account was closed or the defendant breached the terms of the account or loan agreement;
- (C) of the amount due on the account or loan as of a date certain after all payment credits and offsets have been applied; and
- (D) that the plaintiff owns the account or loan and, if applicable, how the plaintiff acquired the account or loan.

Default Judgment

- 508.3
- Documentary evidence may be considered if it is attached to a sworn statement made by the plaintiff or its representative, a prior holder of the debt or its representative, or the original creditor or its representative, that attests to the following:
- (A) the documents were kept in the regular course of business;
- (B) it was the regular course of business for an employee or representative with knowledge of the act recorded to make the record or to transmit information to be included in such record;
- (C) the documents were created at or near the time or reasonably soon thereafter; and
- (D) the documents attached are the original or exact duplicates of the original.

Default Judgment

- 508.3
- A judge is not required to accept a sworn statement if the source of information or the method or circumstances of preparation indicate lack of trustworthiness. But a judge may not reject a sworn statement only because it is not made by the original creditor or because the documents attested to were created by a third party and subsequently incorporated into and relied upon by the business of the plaintiff.

Default Judgment - Hearing

- 508.3
- The judge may enter a default judgment without a hearing if the plaintiff submits sufficient written evidence of its damages and should do so to avoid undue expense and delay. Otherwise, the plaintiff may request a default judgment hearing at which the plaintiff must appear, in person or by telephonic or electronic means, and prove its damages. If the plaintiff proves its damages, the judge must render judgment for the plaintiff in the amount proven. If the plaintiff is unable to prove its damages, the judge must render judgment in favor of the defendant.

Default Judgment

- 508.3
- If the defendant files an answer or otherwise appears in a case before a default judgment is signed by the judge, the judge must not render a default judgment and must set the case for trial.
- If a defendant who has answered fails to appear for trial, the court may proceed to hear evidence on liability and damages and render judgment accordingly.

REPAIR & REMEDY CASES

RULE 509 – REPAIR & REMEDY CASES

Applicability

- 509.1
- Largely unchanged from prior Rule 737, Rule 509 applies to a lawsuit filed in a justice court by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant.
- Rule 509 controls if conflict with other rules

Petition

- 509.2
- Attached is pet. promulgated by Supreme Ct
 - Don't have to use form, must be given opportunity to cure defects; must provide copies for all parties
- Must contain many items including:
 - Contact info for both parties
 - Street address of the premises
 - Statement that recovery sought is <\$10k
 - Info on all notices given
 - Description of the condition and relief sought

Citation

- 509.3
- Must immediately issue citation directing the landlord to appear for a trial date, which is no less than 10 days, no more than 21 days from the date the petition was filed
- Landlord may, but is not required, to file a written answer

Service of Citation

- 509.4
- Must be served at least 6 days before trial date and returned at least one day before trial date
- Manner otherwise is same as regular citations
- Must be served on the landlord if address known, otherwise on mgmt company if address known, otherwise on agent for service under Chapter 92
- Alternative service is on mgmt company or agent

Docketing and Trial

- 509.5
- Docketed as other cases. Judge develops case.
- If landlord doesn't appear and was served, may hear evidence and render judgment
- If tenant doesn't appear, may dismiss suit

Judgment

- 509.6
- Must be clear and explicit, contain the address of the premises and must be served on the landlord in open court or as provided in Rule 501.4
- Order reducing rent must specify the start date and amount of rent, and when payment made
- May award actual damages; civil penalty of \$500 or 1 months rent, whichever is greater; costs; attorney's fees

Counterclaim; Appeal

- 509.7
 - No counterclaims or 3rd party claims
- 509.8
 - 21 days to appeal from judgment or modification of judgment
 - Notice of appeal perfects the appeal; no bond
 - Appeal stays enforcement of any order
 - Otherwise appeal is as in other case

Writ of Possession

- 509.9
- Judgment for possession becoming final terminates an order to repair under this Rule

EVICTON CASES

RULE 510 – EVICTION CASES

Applicability

- 510.1
- Rule 510 applies to a lawsuit to recover possession of real property under Chapter 24 of the Texas Property Code.
- Rule 510 controls in event of conflict with other justice court rules.

Computation of Time

- 510.2
- Rule 500.5 applies to the computation of time in an eviction case. But if a document is filed by mail and not received by the court by the due date, the court may take any action authorized by these rules, including issuing a writ of possession requiring a tenant to leave the property.

Petition

- 510.3
- In addition to requirements of 502.2, the petition must be sworn to, and contain:
- a description, including the address, if any, of the premises that the plaintiff seeks possession of;
- a description of the facts and the grounds for eviction;
- a description of when and how notice to vacate was delivered;
- the total amount of rent due and unpaid at the time of filing, if any; and
- a statement that attorney fees are being sought, if applicable.

Petition

- 510.3
- The petition must be filed in the precinct where the premises is located. If it is filed elsewhere, the judge must dismiss the case. The plaintiff will not be entitled to a refund of the filing fee, but will be refunded any service fees paid if the case is dismissed before service is attempted.

Petition

- 510.3
- If the eviction is based on a written residential lease, the plaintiff must name as defendants all tenants obligated under the lease residing at the premises whom plaintiff seeks to evict. No judgment or writ of possession may issue or be executed against a tenant obligated under a lease and residing at the premises who is not named in the petition and served with citation.

Petition

- 510.3
- Only claims for back rent may be joined
- No counterclaims or 3rd party claims are allowed
- Only issue is right of possession

Citation

- 510.4
- Shall immediately issue, must also include trial date, which is no less than 10 and no more than 21 days from FILING of the suit
- Must inform defendant of their rights to jury and contain multiple warnings and explanation of rights

Service & Return of Citation

- 501.4
- Unless authorized by written court order, must be served by sheriff or constable
- delivering a copy with a copy of the petition attached to the defendant, or by leaving a copy with a copy of the petition attached with some person, other than the plaintiff, over the age of 16 years, at the defendant's usual place of residence
- Served at least 6 days before the day set for trial.
- Return filed at least 1 day before the trial date.

Service & Return of Citation

- 501.4
- Alternative service is as before (2 attempts at all addresses), doesn't have to be requested by plaintiff
- Deposited in mail chute, under the front door or affixed to main entry
- Mailed to residence

Request for Immediate Possession

- 510.5
- Plaintiff may post bond for imm. possession
- The court must notify a defendant that the plaintiff has filed a possession bond. The notice must be served in the same manner as service of citation and must inform the defendant that if the defendant does not file an answer or appear for trial, and judgment for possession is granted by default, an officer will place the plaintiff in possession of the property on or after the 7th day after the date defendant is served with the notice.

Request for Immediate Possession

- 510.5
- If judgment for possession is rendered by default and a possession bond has been filed, approved, and served under this rule, a writ of possession must issue immediately upon demand and payment of any required fees. The writ must not be executed before the 7th day after the date defendant is served with notice under (b).

Request for Immediate Possession

- 510.5
- If the defendant files an answer or appears at trial, no writ of possession may issue before the 6th day after the date a judgment for possession is signed or the day following the deadline for the defendant to appeal the judgment, whichever is later.

Trial Date; Answer; Default J/M

- 510.6
- Defendant must appear on trial date in citation. May but not required to file answer.
- If the defendant fails to appear at trial and fails to file an answer before the case is called for trial, and proof of service has been filed in accordance with Rule 510.4, the allegations of the complaint must be taken as admitted and judgment by default rendered accordingly. If a defendant who has answered fails to appear for trial, the court may proceed to hear evidence and render judgment accordingly.
- When a default judgment is signed, the clerk must immediately mail written notice of the judgment by first class mail to the defendant at the address of the premises.

Trial

- 510.7
- No trial may be held less than 6 days after service. Jury may be demanded in writing no less than 3 days before trial date.
- Postponements limited to 7 days unless both parties agree in writing

Judgment; Writ; No New Trial

- If the judgment is in favor of the plaintiff, the judge must render judgment for plaintiff for possession of the premises, costs, delinquent rent as of the date of entry of judgment, if any, and attorney fees if recoverable by law.
- If the judgment is in favor of the defendant, the judge must render judgment for defendant against the plaintiff for costs and attorney fees if recoverable by law.

Judgment; Writ; No New Trial

- If the judgment is in favor of the plaintiff, the judge must render judgment for plaintiff for possession of the premises, costs, delinquent rent as of the date of entry of judgment, if any, and attorney fees if recoverable by law.
- If the judgment is in favor of the defendant, the judge must render judgment for defendant against the plaintiff for costs and attorney fees if recoverable by law.
- If the judgment or verdict is in favor of the plaintiff, the judge must award a writ of possession upon demand of the plaintiff and payment of any required fees.

Judgment; Writ; No New Trial

- Except as provided by Rule 510.5, no writ of possession may issue before the 6th day after the date a judgment for possession is signed or the day following the deadline for the defendant to appeal the judgment, whichever is later.
- A writ of possession may not issue more than 60 days after a judgment for possession is signed. For good cause, the court may extend the deadline for issuance to 90 days after a judgment for possession is signed.
- Writ may not be executed more than 90 days after judgment

Appeal

- 510.9
- Same as current appeal rule, EXCEPT:
 - Court may contest inability to pay
 - If a statement of inability to pay is filed, the court must provide notice to all other parties that the statement was filed no later than the next business day.
 - Within 5 days of filing a bond or making a cash deposit, an appellant must serve written notice of the appeal on all other parties using a method approved under Rule 501.4.
 - If statement of inability is denied, party has one day to post a bond or cash

Record on Appeal; Docketing; Trial De Novo

- 510.10
- County clerk must give notice that a written answer must be filed within 8 days if one wasn't filed in justice court
- 510.11-510.13
- Govern county court procedure in processing eviction appeals

Cause No. _____

Tenant: _____
V. _____
Landlord: _____

In the Justice Court
Precinct _____ Place _____
County, Texas

PETITION FOR RELIEF UNDER SECTION 92.0563 OF THE TEXAS PROPERTY CODE

1. **COMPLAINT:** Tenant files this petition against the above-named Landlord pursuant to Section 92.0563 of the Texas Property Code because there is a condition in Tenant's residential rental property that would materially affect the health or safety of an ordinary tenant. Information Regarding Residential Rental Property:

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

Landlord's Contact Information (to the extent known):

Business Street Address Unit No. (if any) City County State Zip Phone Number

2. **SERVICE OF CITATION:** Check the box next to each statement that is true.

☐ Tenant received in writing Landlord's name and business street address.

☐ Tenant received in writing the name and business street address of Landlord's management company.

☐ The name of Landlord's management company is _____. To Tenant's knowledge, this is the management company's contact information:

Business Street Address Unit No. (if any) City County State Zip Phone Number

☐ The name of Landlord's on-premise manager is _____. To Tenant's knowledge, this is the on-premise manager's contact information

Business Street Address Unit No. (if any) City County State Zip Phone Number

☐ The name of Landlord's rent collector serving the residential rental property is _____. To Tenant's knowledge, this is the rent collector's contact information:

Business Street Address Unit No. (if any) City County State Zip Phone Number

3. **LEASE AND NOTICE:** Check the box next to each statement that is true.

☐ The lease is oral. ☐ The lease is in writing. ☐ The lease requires the notice to repair or remedy a condition to be in writing.

☐ Tenant gave written notice to repair or remedy the condition on _____. ☐ The written notice to repair or remedy the condition was sent by certified mail, return receipt requested, or registered mail on _____.

☐ Tenant gave oral notice to repair or remedy the condition on _____.

Name of person(s) to whom notice was given: _____

Place where notice was given: _____

4. **RENT:** At the time Tenant gave notice to repair or remedy the condition, Tenant's rent was: ☐ current (no rent owed), ☐ not current but Tenant offered to pay the rent owed and Landlord did not accept it, or ☐ not current and Tenant did not offer to pay the rent owed. Tenant's rent is due on the _____ day of the ☐ month ☐ week ☐ _____ (specify any other rent-payment period). The rent is \$ _____ per ☐ month ☐ week ☐ _____ (specify any other rent-payment period). Tenant's rent (check one): ☐ is not subsidized by the government ☐ is subsidized by the government as follows, if known: \$ _____ paid by the government, and \$ _____ paid by Tenant.

5. **PROPERTY CONDITION:** Describe the property condition materially affecting the physical health or safety of an ordinary tenant that Tenant seeks to have repaired or remedied: _____

6. **RELIEF REQUESTED:** Tenant requests the following relief: ☐ a court order to repair or remedy the condition, ☐ a court order reducing Tenant's rent (in the amount of \$ _____ to begin on _____), ☐ actual damages in the amount of \$ _____, ☐ a civil penalty of one month's rent plus \$500, ☐ attorney's fees, and ☐ court costs. Tenant states that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees.

Tenant Signature: _____

Date: _____

Street address Unit No. (if any)

Phone Number

City State Zip

Misc. Docket No. 09- 9195

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