

FILING A REPAIR AND REMEDY CASE

JURISDICTION:

Repair and Remedy Case:

A repair and remedy case is a lawsuit filed 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. The relief sought can be for no more than \$20,000.00, excluding statutory interest and court costs by including attorney fees, if any. Repair and remedy cases are governed by Rules 500-509 and 509 of Part V of the Rules of Civil Procedures.

VENUE:

General Rule. Generally, a defendant in a small claims case or a debt claim case is entitled to be Sued in one of the following venues.

1. The county and precinct where the defendant resides;
2. The county and precinct where the incident, or the majority of the incidents, that gave rise to the claim occurred
3. The county and precinct where the contract or agreement, if any, that gave rise to the claim was to be performed; or
4. The county and precinct where the property is located, in a suit to recover personal property.

FILING SUIT:

The responsibility for filling out your petition and civil case information sheet rests in you. The filing fee of forty six dollars (\$54.00) made payable to the 'Justice Court' and the service fee is eighty-five dollars (\$90.00) per defendant made payable to 'Hill County Constable' to be served in Hill County. If the defendant(s) resides outside of Hill County, contact the county in which the defendant(s) resides for service fees of the other counties.

CITATION:

The citation is sent to the Hill County Constable for Service. Out of County Service is sent to the Sheriff or Constable of the county in which the defendant(s) reside or any manner authorized for service of citation in district, county or justice court. **You as Plaintiff are responsible for providing a correct address for service.**

DISCOVERY:

Pretrial Discovery. Pretrial discovery is limited to that which the judge considers reasonable and necessary. Any request for pretrial discovery must be presented to the court for approval by written motion. The motion must be served on the responding party. The discovery request must not be served on the responding party unless the judge issues a signed order approving the request. Failure to comply with a discovery order can result in sanctions.

REPRESENTATION:

You as an individual may represent yourself in Justice Court or you may have an attorney represent you. The Rules of Evidence do not apply in Justice Court.

Appearance for Trial:

The defendant in the suit is commanded to appear before the Court, on the date and time set by the court. This date shall be not less than 10 days nor more than 21 days after the petition is filed.

Any party is entitled to a trial by jury. A written demand for a jury must be filed no later than 14 days before, the case is set for trial. A party demanding a jury must pay a fee of \$22.00. If the demand is not timely filed, the right to a jury trial is waived.

AFTER JUDGMENT:**APPEAL:**

Either party may appeal the decision of the Justice Court to the County court by filing a written notice of appeal with the Justice Court within 21 days after the date the judge signs the judgment.

THIS COURT DOES NOT COLLECT THE JUDGMENT FOR YOU.

If you receive a judgment and the defendant does not make a motion for a new trial within 14 days or appeal the case within 21 days after the judgment is signed, the following remedies are available;

- **ABSTRACT OF JUDGMENT:**

The fee is \$5.00 for the JP Court to prepare. You should then record the Abstract Judgment in the County where the defendant resides.

- **WRIT OF EXECUTION**

If you are granted a judgment against the defendant AND if the defendant does not appeal within 21 days, you may request a Writ of Execution any time after the 30th day after the judgment is signed. A Writ of Execution allows a Sheriff or Constable in the State of Texas to seize nonexempt property from the defendant in order to satisfy the judgment.

The cost of filing a Writ of Execution is \$5.00 made payable to the 'Justice Court' for filing and \$200.00 made payable to the 'Hill County Constable' service in Hill County.

You may have other remedies available, but they are more complicated and are not covered here. Please consult an attorney for any other remedies you may have to collect your judgment.

If your address changes within a 10 year period following the judgment, it is your responsibility to notify the court of your new address.

LEGAL QUESTION WILL NOT BE ANSWERED BY THIS OFFICE.

JUSTICE COURT CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): _____

STYLED: _____

(e.g., John Smith v. All American Insurance Co.; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaced nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:	2. Names of parties case:
Name: _____ Telephone: _____	Plaintiff(s): _____
Address: _____ Fax: _____	_____
City/State/Zip: _____ State Bar Number: _____	Defendant(s): _____
Email: _____	_____
Signature: _____	(Attach additional page as necessary to list all parties)

3. Indicate case type, or identify the most important issue in the case (select only 1):	
☐ Debt Claim: A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	☐ Eviction: An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount rent due and unpaid is not more than \$20,000, excluding statutory interest and court costs.
☐ Repair and Remedy: A repair and remedy case is a lawsuit filed 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. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	☐ Small Claims: A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$20,000 excluding statutory interest and court costs but including attorney fees, if any.

CAUSE NO. _____

_____ § IN THE JUSTICE COURT
 PLAINTIFF §
 §
 v. § PRECINCT ____
 §
 _____ §
 DEFENDANT § _____ COUNTY, TEXAS

PETITION: REPAIR AND REMEDY CASE

COMPLAINT: Plaintiff files this petition against Defendant pursuant to Rule 509 and Texas Property Code § 92.0563, because there is a condition in Plaintiff's residential rental property that materially affects the health or safety of an ordinary tenant.

Information Regarding Residential Rental Property:

Street Address _____ Unit No. (if any) _____

City	County	State	Zip Code
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Defendant's Contact Information (to the extent known):

Street Address _____ Unit No. (if any) _____

City	County	State	Zip Code
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Phone Number: () _____

SERVICE OF CITATION: Plaintiff requests service of the citation on the Defendant and, if required, alternative service pursuant to Rule 509.4.

The following are true (check the box next to each statement that is true):

- ☐ Plaintiff received in writing Defendant's name and business street address.
- ☐ Plaintiff received in writing the name and business street address of Defendant's management company.

CONTACT INFORMATION (if known): Plaintiff provides the following contact information to the best of their knowledge:

Management Company's Contact Information:

Name

Street Address Unit No. (if any)

City County State Zip Code

Phone Number: (____)_____

On-Premises Manager's Contact Information:

Name

Street Address Unit No. (if any)

City County State Zip Code

Phone Number: (____)_____

Rent Collector's Contact Information:

Name

Street Address Unit No. (if any)

City County State Zip Code

Phone Number: (____)_____

PROPERTY CONDITION: The property condition materially affecting the physical health or safety of an ordinary tenant that Plaintiff seeks to have repaired or remedied is:

_____.

LEASE AND NOTICE: The following are true (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 and remedy a condition to be in writing.
- ☐ Plaintiff gave written notice to repair or remedy the condition on _____, 20____.
- ☐ Plaintiff gave a subsequent written notice to repair or remedy the condition after a reasonable time to repair or remedy the condition after giving the first notice. The subsequent written notice was given on _____, 20____.

☐ Plaintiff gave written notice to repair or remedy the condition by certified mail, return, receipt requested, or registered mail or by another form of mail that allows tracking of delivery from the USPS or a private delivery service on _____, 20____.

☐ Plaintiff gave oral notice to repair or remedy the condition on _____, 20____. Name of person(s) to whom notice was given: _____ Place where notice was given: _____.

RENT: At the time Plaintiff gave notice to repair or remedy the condition, Plaintiff's rent was:

☐ current (*no rent owed*); ☐ not current but Plaintiff offered to pay the rent and Defendant did not accept it; or ☐ not current and Plaintiff did not offer to pay the rent owed.

Plaintiff's rent of \$ _____ is due on the ____ day of the ☐ month ☐ week ☐ _____ (*specify any other rent-payment period*).

Plaintiff's rent: ☐ is not subsidized by the government ☐ is subsidized by the government as follows, if known: \$ _____ paid by the government, and \$ _____ paid by Plaintiff.

RELIEF REQUESTED: Plaintiff requests the following relief (*check all that apply*):

- ☐ a court order to repair or remedy the condition;
- ☐ a court order reducing Plaintiff's rent in the amount of \$ _____ to begin on _____, 20____;
- ☐ actual damages in the amount of \$ _____;
- ☐ a civil penalty of one month's rent plus \$500;
- ☐ attorney's fees; and
- ☐ court costs.

JURISDICTION: Plaintiff states that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees.

TRIAL:

- ☐ I request a jury trial. (*The fee is \$22 and must be paid at least 14 days before trial unless you file a Statement of Inability to Afford Payment of Court Costs in compliance with Texas Rule of Civil Procedure 502.3.*)
- ☐ I do not request a jury at this time.

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:

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

REMOTE PARTICIPATION:

Hearing by Phone Call: *(When a hearing happens by phone call, you will be able to talk to and hear the judge, Defendant, or any witnesses, but you will not be able to see them. Copies of any evidence to be used must be exchanged by the parties and sent to the judge before the hearing.)*

☐ Yes, I am able to have any hearings in this case, except a jury trial, by phone call with the judge and Defendant and understand that I must have a phone to use on the date and time of the hearing.

☐ No, I am not able to have hearings by phone call.

Hearing by Video Conference: *(When a hearing happens by video conference, you can hear, see, and talk to the judge, Defendant, and any witnesses. You will be able to see any evidence presented during the hearing. You will need to have a computer, a smartphone, or tablet that has a camera feature. You will also need access to the internet to be able to have a video conference.)*

☐ Yes, I am able to have any hearings in this case, except a jury trial, by video conference. I understand that I am responsible for having the equipment and internet access needed to participate in a video conference on the date and time of the hearing.

☐ No, I am not able to have hearings by video conference.

NOTE: Your responses in this section do not guarantee that hearings will be held remotely, but rather they help the court know how you are able to participate.

Respectfully submitted,

Signature of Plaintiff

Printed Name: _____

Address: _____

Email: _____

Telephone: _____

Fax: _____

Signature of Attorney, if any

Printed Name: _____

Address: _____

Email: _____

Telephone: _____

Fax: _____

State Bar No.: _____