

proves its case, judgment must be awarded for the relief proven. If the plaintiff fails to prove its case, judgment must be rendered against the plaintiff.

RULE 504. JURY

RULE 504.1. JURY TRIAL DEMANDED

- (a) *Demand.* 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 date a case is set for trial. If the demand is not timely, the right to a jury is waived unless the late filing is excused by the judge for good cause.
- (b) *Jury Fee.* Unless otherwise provided by law, a party demanding a jury must pay a fee of \$22.00 or must file a sworn statement of inability to pay the fee at or before the time the party files a written request for a jury.
- (c) *Withdrawal of Demand.* If a party who demands a jury and pays the fee withdraws the demand, the case will remain on the jury docket unless all other parties present agree to try the case without a jury. A party that withdraws its jury demand is not entitled to a refund of the jury fee.
- (d) *No Demand.* If no party timely demands a jury and pays the fee, the judge will try the case without a jury.

RULE 504.2. EMPANELING THE JURY

- (a) *Drawing Jury and Oath.* If no method of electronic draw has been implemented, the judge must write the names of all prospective jurors present on separate slips of paper as nearly alike as may be, place them in a box, mix them well, and then draw the names one by one from the box. The judge must list the names drawn and deliver a copy to each of the parties or their attorneys.
- (b) *Oath.* After the draw, the judge must swear the panel as follows: "You solemnly swear or affirm that you will give true and correct answers to all questions asked of you concerning your qualifications as a juror."
- (c) *Questioning the Jury.* The judge, the parties, or their attorneys will be allowed to question jurors as to their ability to serve impartially in the trial but may not ask the jurors how they will rule in the case. The judge will have discretion to allow or disallow specific questions and determine the amount of time each side will have for this process.
- (d) *Challenge for Cause.* A party may challenge any juror for cause. A challenge for cause is an objection made to a juror alleging some fact, such as a bias or prejudice, that disqualifies

the juror from serving in the case or that renders the juror unfit to sit on the jury. The challenge must be made during jury questioning. The party must explain to the judge why the juror should be excluded from the jury. The judge must evaluate the questions and answers given and either grant or deny the challenge. When a challenge for cause has been sustained, the juror must be excused.

- (e) *Challenges Not for Cause.* After the judge determines any challenges for cause, each party may select up to 3 jurors to excuse for any reason or no reason at all. But no prospective juror may be excused for membership in a constitutionally protected class.
- (f) *The Jury.* After all challenges, the first 6 prospective jurors remaining on the list constitute the jury to try the case.
- (g) *If Jury Is Incomplete.* If challenges reduce the number of prospective jurors below 6, the judge may direct the sheriff or constable to summon others and allow them to be questioned and challenged by the parties as before, until at least 6 remain.
- (h) *Jury Sworn.* When the jury has been selected, the judge must require them to take substantially the following oath: "You solemnly swear or affirm that you will render a true verdict according to the law and the evidence presented."

RULE 504.3. JURY NOT CHARGED

The judge must not charge the jury.

RULE 504.4. JURY VERDICT FOR SPECIFIC ARTICLES

When the suit is for the recovery of specific articles and the jury finds for the plaintiff, the jury must assess the value of each article separately, according to the evidence presented at trial.

RULE 505. JUDGMENT; NEW TRIAL

RULE 505.1. JUDGMENT

- (a) *Judgment Upon Jury Verdict.* Where a jury has returned a verdict, the judge must announce the verdict in open court, note it in the court's docket, and render judgment accordingly. The judge may render judgment on the verdict or, if the verdict is contrary to the law or the evidence, judgment notwithstanding the verdict.
- (b) *Case Tried by Judge.* When a case has been tried before the judge without a jury, the judge must announce the decision in open court, note the decision in the court's docket, and render judgment accordingly.

- (c) *Form.* A judgment must:
 - (1) clearly state the determination of the rights of the parties in the case;
 - (2) state who must pay the costs;
 - (3) be signed by the judge; and
 - (4) be dated the date of the judge's signature.
- (d) *Costs.* The judge must award costs allowed by law to the successful party.
- (e) *Judgment for Specific Articles.* Where the judgment is for the recovery of specific articles, the judgment must order that the plaintiff recover such specific articles, if they can be found, and if not, then their value as assessed by the judge or jury with interest at the prevailing post-judgment interest rate.

RULE 505.2. ENFORCEMENT OF JUDGMENT

Justice court judgments are enforceable in the same method as in county and district court, except as provided by law. When the judgment is for personal property, the court may award a special writ for the seizure and delivery of such property to the plaintiff, and may, in addition to the other relief granted in such cases, enforce its judgment by attachment or fine.

RULE 505.3. MOTION TO SET ASIDE; MOTION TO REINSTATE; MOTION FOR NEW TRIAL

- (a) *Motion to Reinstate after Dismissal.* A plaintiff whose case is dismissed may file a motion to reinstate the case no later than 14 days after the dismissal order is signed. The plaintiff must serve the defendant with a copy of the motion no later than the next business day using a method approved under Rule 501.4. The court may reinstate the case for good cause shown.
- (b) *Motion to Set Aside Default.* A defendant against whom a default judgment is granted may file a motion to set aside the judgment no later than 14 days after the judgment is signed. The defendant must serve the plaintiff with a copy of the motion no later than the next business day using a method approved under Rule 501.4. The court may set aside the judgment and set the case for trial for good cause shown.
- (c) *Motion for New Trial.* A party may file a motion for a new trial no later than 14 days after the judgment is signed. The party must serve all other parties with a copy of the motion no later than the next business day using a method approved under Rule 501.4. The judge may

grant a new trial upon a showing that justice was not done in the trial of the case. Only one new trial may be granted to either party.

- (d) *Motion Not Required.* Failure to file a motion under this rule does not affect a party's right to appeal the underlying judgment.
- (e) *Motion Denied as a Matter of Law.* If the judge has not ruled on a motion to set aside, motion to reinstate, or motion for new trial, the motion is automatically denied at 5:00 p.m. on the 21st day after the day the judgment was signed.

RULE 506. APPEAL

RULE 506.1. APPEAL

- (a) *How Taken; Time.* A party may appeal a judgment by filing a bond, making a cash deposit, or filing a sworn statement of inability to pay with the justice court within 21 days after the judgment is signed or the motion to reinstate, motion to set aside, or motion for new trial, if any, is denied.
- (b) *Amount of Bond; Sureties; Terms.* A plaintiff must file a \$500 bond. A defendant must file a bond in an amount equal to twice the amount of the judgment. The bond must be supported by a surety or sureties approved by the judge. The bond must be payable to the appellee and must be conditioned on the appellant's prosecution of its appeal to effect and payment of any judgment and all costs rendered against it on appeal.
- (c) *Cash Deposit in Lieu of Bond.* In lieu of filing a bond, an appellant may deposit with the clerk of the court cash in the amount required of the bond. The deposit must be payable to the appellee and must be conditioned on the appellant's prosecution of its appeal to effect and payment of any judgment and all costs rendered against it on appeal.
- (d) *Sworn Statement of Inability to Pay.*
 - (1) *Filing.* An appellant who cannot furnish a bond or pay a cash deposit in the amount required may instead file a sworn statement of inability to pay. The statement must meet the requirements of Rule 502.3(b) and may be the same one that was filed with the petition.
 - (2) *Contest.* The statement may be contested as provided in Rule 502.3(d) within 7 days after the opposing party receives notice that the statement was filed.
 - (3) *Appeal If Contest Sustained.* If the contest is sustained, the appellant may appeal that decision by filing notice with the justice court within 7 days of that court's

written order. The justice court must then forward all related documents to the county court for resolution. The county court must set the matter for hearing within 14 days and hear the contest de novo, as if there had been no previous hearing, and if the appeal is granted, must direct the justice court to transmit to the clerk of the county court the transcript, records, and papers of the case, as provided in these rules.

- (4) **If No Appeal or If Appeal Overruled.** If the appellant does not appeal the ruling sustaining the contest, or if the county court denies the appeal, the appellant may, within five days, post an appeal bond or make a cash deposit in compliance with this rule.
- (e) **Notice to Other Parties Required.** 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 7 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.
- (f) **No Default on Appeal Without Compliance With Rule.** The county court to which an appeal is taken must not render default judgment against any party without first determining that the appellant has fully complied with this rule.
- (g) **No Dismissal of Appeal Without Opportunity for Correction.** An appeal must not be dismissed for defects or irregularities in procedure, either of form or substance, without allowing the appellant, after 7 days' notice from the court, the opportunity to correct such defect.
- (h) **Appeal Perfected.** An appeal is perfected when a bond, cash deposit, or statement of inability to pay is filed in accordance with this rule.
- (i) **Costs.** The appellant must pay the costs on appeal to a county court in accordance with Rule 143a.

RULE 506.2. RECORD ON APPEAL

When an appeal has been perfected from the justice court, the judge must immediately send to the clerk of the county court a certified copy of all docket entries, a certified copy of the bill of costs, and the original papers in the case.

RULE 506.3. TRIAL DE NOVO

The case must be tried de novo in the county court. A trial de novo is a new trial in which the entire case is presented as if there had been no previous trial.

RULE 506.4. WRIT OF CERTIORARI

- (a) *Application.* Except in eviction cases, after final judgment in a case tried in justice court, a party may apply to the county court for a writ of certiorari.
- (b) *Grounds.* An application must be granted only if it contains a sworn statement setting forth facts showing that either:
 - (1) the justice court did not have jurisdiction; or
 - (2) the final determination of the suit worked an injustice to the applicant that was not caused by the applicant's own inexcusable neglect.
- (c) *Bond, Cash Deposit, or Sworn Statement of Indigency to Pay Required.* If the application is granted, a writ of certiorari must not issue until the applicant has filed a bond, made a cash deposit, or filed a sworn statement of indigency that complies with Rule 145.
- (d) *Time for Filing.* An application for writ of certiorari must be filed within 90 days after the date the final judgment is signed.
- (e) *Contents of Writ.* The writ of certiorari must command the justice court to immediately make and certify a copy of the entries in the case on the docket, and immediately transmit the transcript of the proceedings in the justice court, together with the original papers and a bill of costs, to the proper court.
- (f) *Clerk to Issue Writ and Citation.* When the application is granted and the bond, cash deposit, or sworn statement of indigency have been filed, the clerk must issue a writ of certiorari to the justice court and citation to the adverse party.
- (g) *Stay of Proceedings.* When the writ of certiorari is served on the justice court, the court must stay further proceedings on the judgment and comply with the writ.
- (h) *Cause Docketed.* The action must be docketed in the name of the original plaintiff, as plaintiff, and of the original defendant, as defendant.
- (i) *Motion to Dismiss.* Within 30 days after the service of citation on the writ of certiorari, the adverse party may move to dismiss the certiorari for want of sufficient cause appearing in the affidavit, or for want of sufficient bond. If the certiorari is dismissed, the judgment must direct the justice court to proceed with the execution of the judgment below.
- (j) *Amendment of Bond or Oath.* The affidavit or bond may be amended at the discretion of the court in which it is filed.

- (k) *Trial De Novo*. The case must be tried de novo in the county court and judgment must be rendered as in cases appealed from justice courts. A trial de novo is a new trial in which the entire case is presented as if there had been no previous trial.

RULE 507. ADMINISTRATIVE RULES FOR JUDGES AND COURT PERSONNEL

RULE 507.1. PLENARY POWER

A justice court loses plenary power over a case when an appeal is perfected or if no appeal is perfected, 21 days after the later of the date judgment is signed or the date a motion to set aside, motion to reinstate, or motion for new trial, if any, is denied.

RULE 507.2. FORMS

The court may provide forms to enable a party to file documents that comply with these rules. No party may be forced to use the court's forms.

RULE 507.3. DOCKET AND OTHER RECORDS

- (a) *Docket*. Each judge must keep a civil docket in a permanent record containing the following information:
- (1) the title of all suits commenced before the court;
 - (2) the date when the first process was issued against the defendant, when returnable, and the nature of that process;
 - (3) the date when the parties, or either of them, appeared before the court, either with or without a citation;
 - (4) a description of the petition and any documents filed with the petition;
 - (5) every adjournment, stating at whose request and to what time;
 - (6) the date of the trial, stating whether the same was by a jury or by the judge;
 - (7) the verdict of the jury, if any;
 - (8) the judgment signed by the judge and the date the judgment was signed;
 - (9) all applications for setting aside judgments or granting new trials and the orders of the judge thereon, with the date;

- (10) 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
- (11) all stays and appeals that may be taken, and the date when taken, the amount of the bond and the names of the sureties.
- (b) *Other Records.* 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.
- (c) *Form of Records.* All records required to be kept under this rule may be maintained electronically.

RULE 507.4. ISSUANCE OF WRITS

Every writ from the justice courts must be in writing and be issued and signed by the judge officially. The style thereof must be "The State of Texas." It must, except where otherwise specially provided by law or these rules, be directed to the person or party upon whom it is to be served, be made returnable to the court, and note the date of its issuance.

RULE 508. DEBT CLAIM CASES

RULE 508.1. APPLICATION

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 508.2. PETITION

- (a) *Contents.* In addition to the information required by Rule 502.2, a petition filed in a lawsuit governed by this rule must contain the following information:
 - (1) *Credit Accounts.* 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.
- (2) Personal and Business Loans. 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.
- (3) Ongoing Interest. 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.
- (4) Assigned Debt. 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.

RULE 508.3. DEFAULT JUDGMENT

- (a) *Generally.* If the defendant does not file an answer to a claim by the answer date or otherwise appear in the case, the judge must promptly render a default judgment upon the plaintiff's proof of the amount of damages.
- (b) *Proof of the Amount of Damages.*
 - (1) *Evidence Must Be Served or Submitted.* 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.
 - (2) *Form of Evidence.* Evidence of plaintiff's damages may be offered in a sworn statement or in live testimony. The evidence offered may include documentary evidence.
 - (3) *Establishment of the Amount of Damages.* 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.
 - (4) *Documentary Evidence Offered By Sworn Statement.* 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.
- (5) **Consideration of Sworn Statement.** 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.
- (c) **Hearing.** 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.
- (d) **Appearance.** 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.
- (e) **Post-Answer Default.** 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.

RULE 509. REPAIR AND REMEDY CASES

RULE 509.1. APPLICABILITY OF RULE

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 509.2. CONTENTS OF PETITION; COPIES; FORMS AND AMENDMENTS

- (a) **Contents of Petition.** The petition must be in writing and must include the following:
 - (1) the street address of the residential rental property;
 - (2) a statement indicating whether the tenant has received in writing the name and business street address of the landlord and landlord's management company;

- (3) to the extent known and applicable, the name, business street address, and telephone number of the landlord and the landlord's management company, on-premises manager, and rent collector serving the residential rental property;
- (4) for all notices the tenant gave to the landlord requesting that the condition be repaired or remedied:
 - (A) the date of the notice;
 - (B) the name of the person to whom the notice was given or the place where the notice was given;
 - (C) whether the tenant's lease is in writing and requires written notice;
 - (D) whether the notice was in writing or oral;
 - (E) whether any written notice was given by certified mail, return receipt requested, or by registered mail; and
 - (F) whether the rent was current or had been timely tendered at the time notice was given;
- (5) a description of the property condition materially affecting the physical health or safety of an ordinary tenant that the tenant seeks to have repaired or remedied;
- (6) a statement of the relief requested by the tenant, including an order to repair or remedy a condition, a reduction in rent, actual damages, civil penalties, attorney's fees, and court costs;
- (7) if the petition includes a request to reduce the rent:
 - (A) the amount of rent paid by the tenant, the amount of rent paid by the government, if known, the rental period, and when the rent is due; and
 - (B) the amount of the requested rent reduction and the date it should begin;
- (8) a statement that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees; and
- (9) the tenant's name, address, and telephone number.

- (b) *Copies.* The tenant must provide the court with copies of the petition and any attachments to the petition for service on the landlord.
- (c) *Forms and Amendments.* A petition substantially in the form promulgated by the Supreme Court is sufficient. A suit may not be dismissed for a defect in the petition unless the tenant is given an opportunity to correct the defect and does not promptly correct it.

RULE 509.3. CITATION: ISSUANCE; APPEARANCE DATE; ANSWER

- (a) *Issuance.* When the tenant files a written petition with a justice court, the judge must immediately issue citation directed to the landlord, commanding the landlord to appear before such judge at the time and place named in the citation.
- (b) *Appearance Date; Answer.* The appearance date on the citation must not be less than 10 days nor more than 21 days after the petition is filed. For purposes of this rule, the appearance date on the citation is the trial date. The landlord may, but is not required to, file a written answer on or before the appearance date.

RULE 509.4. SERVICE AND RETURN OF CITATION; ALTERNATIVE SERVICE OF CITATION

- (a) *Service and Return of Citation.* The sheriff, constable, or other person authorized by Rule 501.2 who receives the citation must serve the citation by delivering a copy of it, along with a copy of the petition and any attachments, to the landlord at least 6 days before the appearance date. At least one day before the appearance date, the person serving the citation must file a return of service with the court that issued the citation. The citation must be issued, served, and returned in like manner as ordinary citations issued from a justice court.
- (b) *Alternative Service of Citation.*
 - (1) If the petition does not include the landlord's name and business street address, or if, after making diligent efforts on at least two occasions, the officer or authorized person is unsuccessful in serving the citation on the landlord under (a), the officer or authorized person must serve the citation by delivering a copy of the citation, petition, and any attachments to:
 - (A) the landlord's management company if the tenant has received written notice of the name and business street address of the landlord's management company; or
 - (B) if (b)(1)(A) does not apply and the tenant has not received the landlord's name and business street address in writing, the landlord's authorized agent

for service of process, which may be the landlord's management company, on-premise manager, or rent collector serving the residential rental property.

- (2) If the officer or authorized person is unsuccessful in serving citation under (b)(1) after making diligent efforts on at least two occasions at either the business street address of the landlord's management company, if (b)(1)(A) applies, or at each available business street address of the landlord's authorized agent for service of process, if (b)(1)(B) applies, the officer or authorized person must execute and file in the justice court a sworn statement that the officer or authorized person made diligent efforts to serve the citation on at least two occasions at all available business street addresses of the landlord and, to the extent applicable, the landlord's management company, on-premises manager, and rent collector serving the residential rental property, providing the times, dates, and places of each attempted service. The judge may then authorize the officer or authorized person to serve citation by:
 - (A) delivering a copy of the citation, petition, and any attachments to someone over the age of 16 years, at any business street address listed in the petition, or, if nobody answers the door at a business street address, either placing the citation, petition, and any attachments through a door mail chute or slipping them under the front door, and if neither of these latter methods is practical, affixing the citation, petition, and any attachments to the front door or main entry to the business street address;
 - (B) within 24 hours of complying with (b)(2)(A), sending by first class mail a true copy of the citation, petition, and any attachments addressed to the landlord at the landlord's business street address provided in the petition; and
 - (C) noting on the return of the citation the date of delivery under (b)(2)(A) and the date of mailing under (b)(2)(B).

The delivery and mailing to the business street address under (b)(2)(A)-(B) must occur at least 6 days before the appearance date. At least one day before the appearance date, a return of service must be completed and filed in accordance with Rule 501.3 with the court that issued the citation. It is not necessary for the tenant to request the alternative service authorized by this rule.

RULE 509.5. DOCKETING AND TRIAL; FAILURE TO APPEAR

- (a) *Docketing and Trial.* The case must be docketed and tried as other cases. The judge may develop the facts of the case in order to ensure justice.

(b) *Failure to Appear.*

- (1) If the tenant appears at trial and the landlord has been duly served and fails to appear at trial, the judge may proceed to hear evidence. If the tenant establishes that the tenant is entitled to recover, the judge must render judgment against the landlord in accordance with the evidence.
- (2) If the tenant fails to appear for trial, the judge may dismiss the lawsuit.

RULE 509.6. JUDGMENT: AMOUNT; FORM AND CONTENT; ISSUANCE AND SERVICE; FAILURE TO COMPLY

(a) *Amount.* Judgment may be rendered against the landlord for failure to repair or remedy a condition at the residential rental property if the total judgment does not exceed \$10,000, excluding interest and court costs but including attorney's fees. Any party who prevails in a lawsuit brought under these rules may recover the party's court costs and reasonable attorney's fees as allowed by law.

(b) *Form and Content.*

- (1) The judgment must be in writing, signed, and dated and must include the names of the parties to the proceeding and the street address of the residential rental property where the condition is to be repaired or remedied.
- (2) In the judgment, the judge may:
 - (A) order the landlord to take reasonable action to repair or remedy the condition;
 - (B) order a reduction in the tenant's rent, from the date of the first repair notice, in proportion to the reduced rental value resulting from the condition until the condition is repaired or remedied;
 - (C) award a civil penalty of one month's rent plus \$500;
 - (D) award the tenant's actual damages; and
 - (E) award court costs and attorney's fees, excluding any attorney's fees for a claim for damages relating to a personal injury.
- (3) If the judge orders the landlord to repair or remedy a condition, the judgment must include in reasonable detail the actions the landlord must take to repair or remedy the condition and the date when the repair or remedy must be completed.

- (4) If the judge orders a reduction in the tenant's rent, the judgment must state:
 - (A) the amount of the rent the tenant must pay, if any;
 - (B) the frequency with which the tenant must pay the rent;
 - (C) the condition justifying the reduction of rent;
 - (D) the effective date of the order reducing rent;
 - (E) that the order reducing rent will terminate on the date the condition is repaired or remedied; and
 - (F) that on the day the condition is repaired or remedied, the landlord must give the tenant written notice, served in accordance with Rule 501.4, that the condition justifying the reduction of rent has been repaired or remedied and the rent will revert to the rent amount specified in the lease.
- (c) *Issuance and Service.* The judge must issue the judgment. The judgment may be served on the landlord in open court or by any means provided in Rule 501.4 at an address listed in the citation, the address listed on any answer, or such other address the landlord furnishes to the court in writing. Unless the judge serves the landlord in open court or by other means provided in Rule 501.4, the sheriff, constable, or other authorized person who serves the landlord must promptly file a return of service in the justice court.
- (d) *Failure to Comply.* If the landlord fails to comply with an order to repair or remedy a condition or reduce the tenant's rent, the failure is grounds for citing the landlord for contempt of court under Section 21.002 of the Texas Government Code.

RULE 509.7. COUNTERCLAIMS

Counterclaims and the joinder of suits against third parties are not permitted in suits under these rules. Compulsory counterclaims may be brought in a separate suit. Any potential causes of action, including a compulsory counterclaim, that are not asserted because of this rule are not precluded.

RULE 509.8. APPEAL: TIME AND MANNER; PERFECTION; EFFECT; COSTS; TRIAL ON APPEAL

- (a) *Time and Manner.* Either party may appeal the decision of the justice court to a statutory county court or, if there is no statutory county court with jurisdiction, a county court or district court with jurisdiction by filing a written notice of appeal with the justice court within 21 days after the date the judge signs the judgment. If the judgment is amended in any

respect, any party has the right to appeal within 21 days after the date the judge signs the new judgment, in the same manner set out in this rule.

- (b) *Perfection.* The posting of an appeal bond is not required for an appeal under this rule, and the appeal is considered perfected with the filing of a notice of appeal. Otherwise, the appeal is in the manner provided by law for appeal from a justice court.
- (c) *Effect.* The timely filing of a notice of appeal stays the enforcement of any order to repair or remedy a condition or reduce the tenant's rent, as well as any other actions.
- (d) *Costs.* The appellant must pay the costs on appeal to a county court in accordance with Rule 143a.
- (e) *Trial on Appeal.* On appeal, the parties are entitled to a trial de novo. A trial de novo is a new trial in which the entire case is presented as if there had been no previous trial. Either party is entitled to trial by jury on timely request and payment of a fee, if required. An appeal of a judgment of a justice court under these rules takes precedence in the county court and may be held at any time after the eighth day after the date the transcript is filed in the county court.

RULE 509.9. EFFECT OF WRIT OF POSSESSION

If a judgment for the landlord for possession of the residential rental property becomes final, any order to repair or remedy a condition is vacated and unenforceable.

RULE 510. EVICTION CASES

RULE 510.1. APPLICATION

Rule 510 applies to a lawsuit to recover possession of real property under Chapter 24 of the Texas Property Code.

RULE 510.2. COMPUTATION OF TIME FOR EVICTION CASES

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.

RULE 510.3. PETITION

- (a) *Contents.* In addition to the requirements of Rule 502.2, a petition in an eviction case must be sworn to by the plaintiff and must contain:

- (1) a description, including the address, if any, of the premises that the plaintiff seeks possession of;
 - (2) a description of the facts and the grounds for eviction;
 - (3) a description of when and how notice to vacate was delivered;
 - (4) the total amount of rent due and unpaid at the time of filing, if any; and
 - (5) a statement that attorney fees are being sought, if applicable.
- (b) *Where Filed.* 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.
- (c) *Defendants Named.* 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.
- (d) *Claim for Rent.* A claim for rent within the justice court's jurisdiction may be asserted in an eviction case.
- (e) *Only Issue.* The court must adjudicate the right to actual possession and not title. Counterclaims and the joinder of suits against third parties are not permitted in eviction cases. A claim that is not asserted because of this rule can be brought in a separate suit in a court of proper jurisdiction.

RULE 510.4. ISSUANCE, SERVICE, AND RETURN OF CITATION

- (a) *Issuance of Citation; Contents.* When a petition is filed, the court must immediately issue citation directed to each defendant. The citation must:
- (1) be styled "The State of Texas";
 - (2) be signed by the clerk under seal of court or by the judge;
 - (3) contain the name, location, and address of the court;
 - (4) state the date of filing of the petition;

- (5) state the date of issuance of the citation;
- (6) state the file number and names of parties;
- (7) state the plaintiff's cause of action and relief sought;
- (8) be directed to the defendant;
- (9) state the name and address of attorney for plaintiff, or if the plaintiff does not have an attorney, the address of plaintiff;
- (10) state the day the defendant must appear in person for trial at the court issuing citation, which must not be less than 10 days nor more than 21 days after the petition is filed;
- (11) notify the defendant that if the defendant fails to appear in person for trial, judgment by default may be rendered for the relief demanded in the petition;
- (12) inform the defendant that, upon timely request and payment of a jury fee no later than 3 days before the day set for trial, the case will be heard by a jury;
- (13) contain all warnings required by Chapter 24 of the Texas Property Code; and
- (14) include the following statement: "For further information, consult Part V of the Texas Rules of Civil Procedure, which is available online and also at the court listed on this citation."

(b) *Service and Return of Citation.*

- (1) **Who May Serve.** Unless otherwise authorized by written court order, citation must be served by a sheriff or constable.
- (2) **Method of Service.** The constable, sheriff, or other person authorized by written court order receiving the citation must execute it by 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, at least 6 days before the day set for trial.
- (3) **Return of Service.** At least one day before the day set for trial, the constable, sheriff, or other person authorized by written court order must complete and file a return of service in accordance with Rule 501.3 with the court that issued the citation.

(c) *Alternative Service by Delivery to the Premises.*

- (1) When Allowed. The citation may be served by delivery to the premises if:
 - (A) the constable, sheriff, or other person authorized by written court order is unsuccessful in serving the citation under (b);
 - (B) the petition lists all home and work addresses of the defendant that are known to the plaintiff and states that the plaintiff knows of no other home or work addresses of the defendant in the county where the premises are located; and
 - (C) the constable, sheriff, or other person authorized files a sworn statement that it has made diligent efforts to serve such citation on at least two occasions at all addresses of the defendant in the county where the premises are located, stating the times and places of attempted service.
- (2) Authorization. The judge must promptly consider a sworn statement filed under (1)(C) and determine whether citation may be served by delivery to the premises. The plaintiff is not required to make a request or motion for alternative service.
- (3) Method. If the judge authorizes service by delivery to the premises, the constable, sheriff, or other person authorized by written court order must, at least 6 days before the day set for trial:
 - (A) deliver a copy of the citation with a copy of the petition attached to the premises by placing it through a door mail chute or slipping it under the front door; if neither method is possible, the officer may securely affix the citation to the front door or main entry to the premises; and
 - (B) deposit in the mail a copy of the citation with a copy of the petition attached, addressed to defendant at the premises and sent by first class mail.
- (4) Notation on Return. The constable, sheriff, or other person authorized by written court order must note on the return of service the date the citation was delivered and the date it was deposited in the mail.

RULE 510.5. REQUEST FOR IMMEDIATE POSSESSION

- (a) *Immediate Possession Bond.* The plaintiff may, at the time of filing the petition or at any time prior to final judgment, file a possession bond to be approved by the judge in the probable amount of costs of suit and damages that may result to defendant in the event that

the suit has been improperly instituted, and conditioned that the plaintiff will pay defendant all such costs and damages that are adjudged against plaintiff.

- (b) *Notice to Defendant.* 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.
- (c) *Time for Issuance and Execution of Writ.* 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).
- (d) *Effect of Appearance.* 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.

RULE 510.6. TRIAL DATE; ANSWER; DEFAULT JUDGMENT

- (a) *Trial Date and Answer.* The defendant must appear for trial on the day set for trial in the citation. The defendant may, but is not required to, file a written answer with the court on or before the day set for trial in the citation.
- (b) *Default Judgment.* 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.
- (c) *Notice of Default.* 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.

RULE 510.7. TRIAL

- (a) *Trial.* An eviction case will be docketed and tried as other cases. No eviction trial may be held less than 6 days after service under Rule 510.4 has been obtained.

- (b) *Jury Trial Demanded.* Any party may file a written demand for trial by jury by making a request to the court at least 3 days before the trial date. The demand must be accompanied by payment of a jury fee or by filing a sworn statement of inability to pay the jury fee. If a jury is demanded by either party, the jury will be impaneled and sworn as in other cases; and after hearing the evidence it will return its verdict in favor of the plaintiff or the defendant. If no jury is timely demanded by either party, the judge will try the case.
- (c) *Limit on Postponement.* Trial in an eviction case must not be postponed for more than 7 days total unless both parties agree in writing.

RULE 510.8. JUDGMENT; WRIT; NO NEW TRIAL

- (a) *Judgment Upon Jury Verdict.* Where a jury has returned a verdict, the judge may render judgment on the verdict or, if the verdict is contrary to the law or the evidence, judgment notwithstanding the verdict.
- (b) *Judgment for Plaintiff.* 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.
- (c) *Judgment for Defendant.* 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.
- (d) *Writ.* 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.
 - (1) *Time to Issue.* 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.
 - (2) *Time to Execute.* A writ of possession may not be executed after the 90th day after a judgment for possession is signed.
 - (3) *Effect of Appeal.* A writ of possession must not issue if an appeal is perfected and, if applicable, rent is paid into the registry, as required by these rules.
- (e) *No Motion For New Trial.* No motion for new trial may be filed.

RULE 510.9. APPEAL

- (a) *How Taken; Time.* A party may appeal a judgment in an eviction case by filing a bond, making a cash deposit, or filing a sworn statement of inability to pay with the justice court within 5 days after the judgment is signed.
- (b) *Amount of Security; Terms.* The justice court judge will set the amount of the bond or cash deposit to include the items enumerated in Rule 510.11. The bond or cash deposit must be payable to the appellee and must be conditioned on the appellant's prosecution of its appeal to effect and payment of any judgment and all costs rendered against it on appeal.
- (c) *Sworn Statement of Inability to Pay.*
 - (1) *Filing.* An appellant who cannot furnish a bond or pay a cash deposit in the amount required may instead file a sworn statement of inability to pay. The statement must meet the requirements of Rule 502.3(b).
 - (2) *Contest.* The statement may be contested as provided in Rule 502.3(d) within 5 days after the opposing party receives notice that the statement was filed.
 - (3) *Appeal If Contest Sustained.* If the contest is sustained, the appellant may appeal that decision by filing notice with the justice court within 5 days of that court's written order. The justice court must then forward all related documents to the county court for resolution. The county court must set the matter for hearing within 5 days and hear the contest de novo, as if there had been no previous hearing, and, if the appeal is granted, must direct the justice court to transmit to the clerk of the county court the transcript, records, and papers of the case, as provided in these rules.
 - (4) *If No Appeal or If Appeal Overruled.* If the appellant does not appeal the ruling sustaining the contest, or if the county court denies the appeal, the appellant may, within one business day, post an appeal bond or make a cash deposit in compliance with this rule.
 - (5) *Payment of Rent in Nonpayment of Rent Appeals.*
 - (A) *Notice.* If a defendant appeals an eviction for nonpayment of rent by filing a sworn statement of inability to pay, the justice court must provide to the defendant a written notice at the time the statement is filed that contains the following information in bold or conspicuous type:
 - (i) the amount of the initial deposit of rent, equal to one rental period's rent under the terms of the rental agreement, that the defendant must pay into the justice court registry;

- (ii) whether the initial deposit must be paid in cash, cashier's check, or money order, and to whom the cashier's check or money order, if applicable, must be made payable;
 - (iii) the calendar date by which the initial deposit must be paid into the justice court registry, which must be within 5 days of the date the sworn statement of inability to pay is filed; and
 - (iv) a statement that failure to pay the required amount into the justice court registry by the required date may result in the court issuing a writ of possession without hearing.
- (B) Defendant May Remain in Possession. A defendant who appeals an eviction for nonpayment of rent by filing a sworn statement of inability to pay is entitled to stay in possession of the premises during the pendency of the appeal by complying with the following procedure:
- (i) Within 5 days of the date that the defendant files a sworn statement of inability to pay, it must pay into the justice court registry the amount set forth in the notice provided at the time the defendant filed the statement. If the defendant was provided with notice and fails to pay the designated amount into the justice court registry within 5 days, and the transcript has not been transmitted to the county clerk, the plaintiff is entitled, upon request and payment of the applicable fee, to a writ of possession, which the justice court must issue immediately and without hearing.
 - (ii) During the appeal process as rent becomes due under the rental agreement, the defendant must pay the designated amount into the county court registry within 5 days of the rental due date under the terms of the rental agreement.
 - (iii) If a government agency is responsible for all or a portion of the rent, the defendant must pay only that portion of the rent determined by the justice court to be paid during appeal. Either party may contest the portion of the rent that the justice court determines must be paid into the county court registry by filing a contest within 5 days after the judgment is signed. If a contest is filed, the justice court must notify the parties and hold a hearing on the contest within 5 days. If the defendant objects to the justice court's ruling at the hearing, the defendant is required to pay only the portion claimed to be owed by the defendant until the issue is tried in county court.

- (iv) If the defendant fails to pay the designated amount into the court registry within the time limits prescribed by these rules, the plaintiff may file a sworn motion that the defendant is in default in county court. The plaintiff must notify the defendant of the motion and the hearing date. Upon a showing that the defendant is in default, the court must issue a writ of possession.
 - (v) The plaintiff may withdraw any or all rent in the county court registry upon sworn motion and hearing, prior to final determination of the case, showing just cause; dismissal of the appeal; or order of the court after final hearing.
 - (vi) All hearings and motions under this subparagraph are entitled to precedence in the county court.
- (d) *Notice to Other Parties Required.* 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.
- (e) *No Default on Appeal Without Compliance With Rule.* No judgment may be taken by default against the adverse party in the court to which the case has been appealed without first showing substantial compliance with this rule.
- (f) *Appeal Perfected.* An appeal is perfected when a bond, cash deposit, or statement of inability to pay is filed in accordance with this rule.

RULE 510.10. RECORD ON APPEAL; DOCKETING; TRIAL DE NOVO

- (a) *Preparation and Transmission of Record.* Unless otherwise provided by law or these rules, when an appeal has been perfected, the judge must stay all further proceedings on the judgment and must immediately send to the clerk of the county court a certified copy of all docket entries, a certified copy of the bill of costs, and the original papers in the case together with any money in the court registry, including sums tendered pursuant to Rule 510.9(c)(5)(B).
- (b) *Docketing; Notice.* The county clerk must docket the case and must immediately notify the parties of the date of receipt of the transcript and the docket number of the case. The notice must advise the defendant that it must file a written answer in the county court within 8 days if one was not filed in the justice court.

- (c) *Trial De Novo*. The case must be tried de novo in the county court. A trial de novo is a new trial in which the entire case is presented as if there had been no previous trial. The trial, as well as any hearings and motions, is entitled to precedence in the county court.

RULE 510.11. DAMAGES ON APPEAL

On the trial of the case in the county court the appellant or appellee will be permitted to plead, prove and recover his damages, if any, suffered for withholding or defending possession of the premises during the pendency of the appeal. Damages may include but are not limited to loss of rentals during the pendency of the appeal and attorney fees in the justice and county courts provided, as to attorney fees, that the requirements of Section 24.006 of the Texas Property Code have been met. Only the party prevailing in the county court will be entitled to recover damages against the adverse party. The prevailing party will also be entitled to recover court costs and to recover against the sureties on the appeal bond in cases where the adverse party has executed an appeal bond.

RULE 510.12. JUDGMENT BY DEFAULT ON APPEAL

An eviction case appealed to county court will be subject to trial at any time after the expiration of 8 days after the date the transcript is filed in the county court. If the defendant has filed a written answer in the justice court, it must be taken to constitute his appearance and answer in the county court and may be amended as in other cases. If the defendant made no answer in writing in the justice court and fails to file a written answer within 8 days after the transcript is filed in the county court, the allegations of the complaint may be taken as admitted and judgment by default may be entered accordingly.

RULE 510.13. WRIT OF POSSESSION ON APPEAL

The writ of possession, or execution, or both, will be issued by the clerk of the county court according to the judgment rendered, and the same will be executed by the sheriff or constable, as in other cases. The judgment of the county court may not be stayed unless within 10 days from the judgment the appellant files a supersedeas bond in an amount set by the county court pursuant to Section 24.007 of the Texas Property Code.

JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

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 replaces 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 in case:
Name: _____	Telephone: _____	Plaintiff(s): _____
Address: _____	Fax: _____	_____
City/State/Zip: _____	State Bar No: _____	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):		
<input type="checkbox"/> 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	<input type="checkbox"/> 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 of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	
<input type="checkbox"/> 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.	<input type="checkbox"/> 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	