Texas Rules of Civil Procedure Part V

When it is concerning matters of law, go first to the specific then to the general…

On **Eviction Cases**, Go First To 510 Series of Rules

Then to the 500 thru 507 Series of Rules.

(If there is a conflict, the 510 Series overrides any other)

The 508 and 509 Series of Rules DO NOT Apply to Eviction Cases

On **Cases to Enforce Landlord's Duty** to Repair or Remedy Residential Rental Property

Go First to the 509 Series of Rules

Then to the 500 thru 507 Series of Rules

(If there is a conflict, the 509 Series overrides any other)

The 508 and 510 Series of Rules DO NOT Apply to Cases to Enforce a Landlord's Duty

On **Debt Claim Cases**, Go First to the 508 Series of Rules

Then to the Rules 500 thru 507

(If there is a conflict, the 508 Series overrides any others)

The 509 and 510 Series of Rules DO NOT Apply to Debt Claim Cases

On **Small Claims Cases**, Only the 500 thru 507 Series of Rules apply

PART V. OF THE TEXAS RULES OF CIVIL PROCEDURE … RULES OF PRACTICE IN JUSTICE COURTS

IN GENERAL: (THE 500 SERIES)

500.1 CONSTRUCTION OF RULES

500.2 DEFINITIONS

500.3 APPLICATION OF RULES IN JUSTICE COURT CASES

500.4 REPRESENTATION IN JUSTICE COURT CASES

500.5 COMPUTATION OF TIME; TIMELY FILING

500.6 JUDGE TO DEVELOP THE CASE

500.7 EXCLUSION OF WITNESSES

500.8 SUBPOENAS

500.9 DISCOVERY

CITATION AND SERVICE (THE 501 SERIES)

501.1 CITATION

501.2 SERVICE OF CITATION

501.3 DUTIES OF OFFICER OR PERSON RECEIVING CITATION

501.4 SERVICE OF PAPERS OTHER THAN CITATION

INSTITUTION OF SUIT (THE 502 SERIES)

502.1 P LEADINGS AND MOTIONS MUST BE WRITTEN, SIGNED AND FILED

502.2 PETITION

502.3 FEES; INABILITY TO AFFORD FEES

502.4 VENUE - WHERE A LAWSUIT MAY BE BROUGHT

502.5 ANSWER

502.6 COUNTERCLAIM; CROSS-CLAIM; THIRD-PARTY CLAIM

502.7 AMENDING AND CLARIFYING PLEADINGS

DEFAULT JUDGMENT; PRE-TRIAL MATTERS; TRIAL (THE 503 SERIES)

503.1 IF DEFENDANT FAILS TO ANSWER

503.2 SUMMARY DISPOSITION

503.3 SETTINGS AND NOTICE; POSTPONING TRIAL

503.4 PRETRIAL CONFERENCE

503.5 ALTERNATIVE DISPUTE RESOLUTION

503.6 TRIAL

JURY (THE 504 SERIES)

504.1 JURY TRIAL DEMANDED

504.2 EMPANELLING THE JURY

504.3 JURY NOT CHARGED

504.4 JURY VERDICT FOR SPECIFIC ARTICLES

JUDGMENT; NEW TRIAL (THE 505 SERIES)

505.1 JUDGMENT

505.2 ENFORCEMENT OF JUDGMENT

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

APPEAL (THE 506 SERIES)

506.1 APPEAL

506.2 RECORD ON APPEAL

506.3 TRIAL DE NOVO

506.4 WRIT OF CERTIORARI

ADMINISTRATIVE RULES FOR JUDGES AND COURT PERSONNEL (THE 507 SERIES)

507.1 PLENARY POWER

507.2 FORMS

507.3 DOCKET AND OTHER RECORDS

507.4 ISSUANCE OF WRITS

THE SPECIFICS FOR DEBT CLAIM CASES (THE 508 SERIES)

508.1 APPLICATION

508.2 PETITION

508.3 DEFAULT JUDGMENT

SPECIFICS FOR PROCEEDINGS TO ENFORCE LANDLORD'S DUTY TO REPAIR OR REMEDY RESIDENTIAL RENTAL PROPERTY (THE 509 SERIES)

509.1 APPLICABILITY OF RULE

509.2 CONTENTS OF PETITION; COPIES; FORMS AND AMENDMENTS

509.3 CITATION: ISSUANCE; APPEARANCE DATE; ANSWER

509.4 SERVICE AND RETURN OF CITATION; ALTERNATIVE SERVICE OF CITATION

509.5 DOCKETING AND TRIAL; FAILURE TO APPEAR

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

509.7 COUNTERCLAIMS

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

509.9 EFFECT OF WRIT OF POSSESSION

EVICTION CASES (THE 510 SERIES)

510.1 APPLICATION

510.2 COMPUTATION OF TIME FOR EVICTION CASES

510.3 PETITION

510.4 ISSUANCE, SERVICE, AND RETURN OF CITATION

510.5 REQUEST FOR IMMEDIATE POSSESSION

510.6 TRIAL DATE; ANSWER; DEFAULT JUDGMENT

510.7 TRIAL

510.8 JUDGMENT; WRIT; NO NEW TRIAL

510.9 APPEAL

510.10 RECORD ON APPEAL; DOCKITING; TRIAL DE NOVO

510.11 DAMAGES ON APPEAL

510.12 JUDGMENT BY DEFAULT ON APPEAL

510.13 WRIT OF POSSESSION ON APPEAL

THE 500 SERIES - THINGS IN GENERAL

RULE 500.1. CONSTRUCTION OF RULES

Unless otherwise expressly provided, in Part V of these Rules of Civil Procedure:

(a) the past, present, and future tense each includes the other;

(b) the term "it" includes a person of either gender or an entity; and

(c) the singular and plural each includes the other.

RULE 500.2. DEFINITIONS

In Part V of these Rules of Civil Procedure:

(a) "Answer" is the written response that someone who is sued must file with the court after being served with a citation.

(b)"Citation" is the court-prepared document required to be served upon a party to inform the party that it has been sued.

(c) "Claim" is the legal theory and alleged facts that, if proven, entitle a party to relief against another party in court.

(d) "Clerk" is a person designated by the judge as a justice court clerk, or the judge if there is no clerk available.

(e) "Counterclaim" is a claim brought by a party who has been sued against the party who filed suit, for example, a defendant suing a plaintiff.

(f) "County court" is the county court, statutory county court, or district court in a particular county with jurisdiction over appeals of civil cases from justice court.

(g) "Cross-claim" is a claim brought by one party against another party on the same side of a lawsuit. For example, if a plaintiff sues two defendants, A and B, A can seek relief against B by means of a cross-claim.

(h) "Default judgment" is a judgment awarded to a plaintiff when the defendant fails to answer and dispute the plaintiff's claims in the lawsuit.

(i) "Defendant" is someone who is sued, including a plaintiff against whom a counterclaim is filed.

(j) "Defense" is an assertion by a defendant that the plaintiff is not entitled to relief from the court.

(k) "Discovery" is the process through which parties obtain information from each other in order to prepare for trial or enforce a judgment. The term does not refer to any information that a party is entitled to under applicable law.

(l) "Dismissed without prejudice" means a case has been dismissed but has not been finally decided and may be refiled.

(m) "Dismissed with prejudice" means a case has been dismissed and finally decided and may not be refiled.

(n) "Judge" is a justice of the peace.

(o) "Judgment" is a final order by the court that states the relief, if any, a party is entitled to or must provide.

(p) "Jurisdiction" is the authority of the court to hear and decide a case.

(q) "Motion" is a request that the court make a specified ruling or order.

(r) "Notice" is a document prepared and delivered by the court or a party stating that something is required of the party receiving the notice.

(s) "Party" is a person involved in the case that is either suing or being sued, including all plaintiffs, defendants, and third parties that have been joined in the case.

(t) "Petition" is a formal written application stating a party's claims and requesting relief from the court. It is the first document filed with the court to begin a lawsuit.

(u) "Plaintiff" is someone who sues, including a defendant who files a counterclaim.

(v) "Pleading" is a written document filed by a party, including a petition and an answer, that states a claim or defense and outlines the relief sought.

(w) "Relief" is the remedy a party requests from the court, such as the recovery of money or the return of property.

(x) "Serve" and "service" are delivery of citation as required by Rule 501.2, or of a document as required by Rule 501.4.

(y) "Sworn" means signed in front of someone authorized to take oaths, such as a notary, or signed under penalty of perjury. Filing a false sworn document can result in criminal prosecution.

(z) "Third party claim" is a claim brought by a party being sued against someone who is not yet a party to the case.

RULE 500.3. APPLICATION OF RULES IN JUSTICE COURT CASES

(a) *Small Claims Case*. A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, or personal property. The claim can be for no more than $10,000 excluding statutory interest and court costs but including attorney fees, if any. Small claims cases are governed by Rules 500-507 of Part V of the Rules of Civil Procedure.

(b) *Debt Claim Case*. 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 in damages, excluding statutory interest and court costs but including attorney fees, if any. Debt claim cases in justice court are governed by Rules 500-507 and 508 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 508 and the rest of Part V, Rule 508 applies.

(c) *Repair and Remedy Case*. A repair and remedy case is a lawsuit brought to seek judicial remedy for the alleged failure of a landlord to remedy or repair a condition as required by Chapter 92 of the Texas Property Code. The relief sought can be no more than $10,000, excluding statutory interest and court costs but including attorney fees, if any. Repair and remedy cases are governed by Rules 500-507 and 509 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 509 and the rest of Part V, Rule 509 applies.

(d) *Eviction Case*. 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, including costs and attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 510 and the rest of Part V, Rule 510 applies.

(e) *Application of Other Rules.* The other Rules of Civil Procedure and the Rules of

Evidence does not apply except:

(1) when the judge hearing the case determines that a particular rule must be followed to ensure that the proceedings are fair to all parties; or

(2) when otherwise specifically provided by law or these rules.

(f) *Examination of Rules*. The court must make the Rules of Civil Procedure and the Rules of Evidence available for examination, either in paper form or electronically, during the court's business hours.

RULE 500.4. REPRESENTATION IN JUSTICE COURT CASES

(a) *Representation of an Individual*. An individual may:

(1) represent himself or herself;

(2) be represented by an authorized agent in an eviction case; or

(3) be represented by an attorney.

(b) *Representation of a Corporation or Other Entity*. A corporation or other entity may:

(1) be represented by an employee, owner, member, officer, or partner of the entity who is not an attorney;

(2) be represented by a property manager or other authorized agent in an eviction case; or

(3) be represented by an attorney.

(c) *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.

RULE 500.5. COMPUTATION OF TIME; TIMELY FILING

(a) *Computation of Time*. To compute a time period in these rules:

(1) exclude the day of the event that triggers the period;

(2) count every day, including Saturdays, Sundays, and legal holidays; and

(3) include the last day of the period, but

(A) if the last day is a Saturday, Sunday, or legal holiday, the time period is extended to the next day that is not a Saturday, Sunday, or legal holiday; or

(B) if the last day for filing falls on a day during which the court is closed before 5:00 p.m., the time period is extended to the court's next business day.

(b) *Timely Filing by Mail*. Any document required to be filed by a given date is considered timely filed if deposited in the U.S. mail on or before that date, and received within 10 days of the due date. A legible postmark affixed by the United States Postal Service is evidence of the date of mailing.

(c) *Extensions*. The judge may, for good cause shown, extend any time period under these rules except those relating to new trial and appeal.

RULE 500.6. JUDGE TO DEVELOP THE CASE

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.

RULE 500.7. EXCLUSION OF WITNESSES

At a party's request, or on its own initiative, the court must order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize the exclusion of:

(a) a party who is a natural person or the spouse of such natural person;

(b) an officer or employee designated as a representative of a party who is not a natural person; or

(c) a person whose presence is shown by a party to be essential to the presentation of the party's case.

RULE 500.8. SUBPOENAS

(a) *Use.* A subpoena may be used by a party or the judge to command a person or entity to attend and give testimony at a hearing or trial. A person may not be required by subpoena to appear in a county that is more than 150 miles from where the person resides or is served.

(b) *Who Can Issue*. A subpoena may be issued by the clerk of the justice court or an attorney authorized to practice in the State of Texas, as an officer of the court.

(c) *Form*. Every subpoena must be issued in the name of the "State of Texas" and must:

(1) state the style of the suit and its case number;

(2) state the court in which the suit is pending;

(3) state the date on which the subpoena is issued;

(4) identify the person to whom the subpoena is directed;

(5) state the time, place, and nature of the action required by the person to whom the subpoena is directed;

(6) identify the party at whose instance the subpoena is issued, and the party's attorney of record, if any;

(7) state that "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of court from which the subpoena is issued and may be punished by fine or confinement, or both"; and

(8) be signed by the person issuing the subpoena.

(d) *Service: Where, By Whom, How*. A subpoena may be served at any place within the State of Texas by any sheriff or constable of the State of Texas, or by any person who is not a party and is 18 years of age or older. A subpoena must be served by delivering a copy to the witness and tendering to that person any fees required by law. If the witness is a party and is party and is represented by an attorney of record in the proceeding, the subpoena may be served on the witness's attorney of record. Proof of service must be made by filing either:

(1) the witness's signed written memorandum attached to the subpoena showing that the witness accepted the subpoena; or

(2) a statement by the person who made the service stating the date, time, and manner of service, and the name of the person served.

(e) *Compliance Required*. A person commanded by subpoena to appear and give testimony must remain at the hearing or trial from day to day until discharged by the court or by the party summoning the witness. If a subpoena commanding testimony is directed to a corporation, partnership, association, governmental agency, or other organization, and the matters on which examination is requested are described with reasonable particularity, the organization must designate one or more persons to testify on its behalf as to matters known or reasonably available to the organization.

(f) *Objection*. A person commanded to attend and give testimony at a hearing or trial may object or move for a protective order before the court at or before the time and place specified for compliance. A party causing a subpoena to issue must take reasonable steps

to avoid imposing undue burden or expense on the person served. In ruling on objections or motions for protection, the court must provide a person served with a subpoena an adequate time for compliance and protection from undue burden or expense. The court may impose reasonable conditions on compliance with a subpoena, including compensating the witness for undue hardship.

(g) *Enforcement*. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or of a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both. A find may not be imposed, nor a person served with a subpoena attached, for failure to comply with a subpoena without proof of service and proof by affidavit of the party requesting the subpoena or the party's attorney of record that all fees due the witness by law were paid or tendered.

RULE 500.9. DISCOVERY

(a) *Pretrial Discovery*. Pretrial discovery is limited to that which the judge considers reasonable and necessary. Any requests for pretrial discovery must be presented to the court for approval by written motion. The motion must be served on the responding party. Unless a hearing is requested, the judge may rule on the motion without a hearing. The discover 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, including dismissal of the case or an order to pay the other party's discovery expenses.

(b) *Post-judgment Discovery*. Post-judgment discovery is not required to be filed with the court. The party requesting discovery must give the responding party at least 30 days to respond to a post-judgment discovery request. The responding party may file a written objection with the court within 30 days of receiving the request. If an objection is filed, the judge must hold a hearing to determine if the request is valid. If the objection is denied, the judge must order the party to respond to the request. If the objection is upheld, the judge may reform the request or dismiss it entirely.

THE 501 SERIES - CITATION AND SERVICE

RULE 501.1. CITATION

(a) *Issuance*. When a petition is filed with a justice court to initiate a suit, the clerk must promptly issue a citation and deliver the citation as directed by the plaintiff. The plaintiff is responsible for obtaining service on the defendant of the citation and a copy of the petition with any documents filed with the petition. Upon request, separate or additional citations must be issued by the clerk. The clerk must retain a copy of the citation in the court's file.

(b) *Form*. 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) show the date of filing of the petition;

(5) show the date of issuance of the citation;

(6) show the file number and names of parties;

(7) be directed to the defendant;

(8) show the name and address of attorney for plaintiff, or if the plaintiff does not have an attorney, the address of plaintiff; and

(9) notify defendant that if the defendant fails to file an answer, judgment by default may be rendered for the relief demanded in the petition.

(c) *Notice*. The citation must include the following notice to the defendant in boldface type: "You have been sued. You may employ an attorney to help you in defending against this lawsuit. But you are not required to employ an attorney. You or your attorney must file an answer with the court. Your answer is due by the end of the 14th day after the day you were served with these papers. If the 14th day is a Saturday, Sunday, or legal holiday, your answer is due by the end of the first day following the 14th day that is not a Saturday, Sunday, or legal holiday. Do not ignore these papers. If you do not file an answer by the due date, a default judgment may be taken against you. 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."

(d) *Copies*. The plaintiff must provide enough copies to be served on each defendant. If the party fails to do so, the clerk may make copies and charge the plaintiff the allowable copying cost.

RULE 501.2. SERVICE OF CITATION

(a) *Who May Serve*. No person who is a party to or interested in the outcome of the suit may serve citation in that suit, and, unless otherwise authorized by written court order, only a sheriff or constable may serve a citation in an eviction case, a writ that requires the actual taking of possession of a person, property or thing, or process requiring that an enforcement action by physically enforced by the person delivering the process. Other citations may be served by:

(1) a sheriff or constable;

(2) a process server certified under order of the Supreme Court;

(3) the clerk of the court, if the citation is served by registered or certified mail; or

(4) a person authorized by court order who is 18 years of age or older.

(b) *Method of Service*. Citation must be served by:

(1) delivering a copy of the citation with a copy of the petition attached to the defendant in person, after endorsing the date of delivery on the citation; or

(2) mailing a copy of the citation with a copy of the petition attached to the defendant by registered or certified mail, restricted delivery, with return receipt or electronic return receipt requested.

(c) *Service Fees*. A plaintiff must pay all fees for service unless the plaintiff has filed a Statement of Inability to Afford Payment of Court Costs with the court. If the plaintiff has filed a Statement, the plaintiff must arrange for the citation to be served by a sheriff, constable, or court clerk.

(d) *Service on Sunday*. A citation cannot be served on a Sunday except in attachment, garnishment, sequestration, or distress proceedings.

(e) *Alternative Service of Citation*. If the methods under (b) are insufficient to serve the defendant, the plaintiff, or the constable, sheriff, process server certified under order of the Supreme Court, or other person authorized to serve process, may make a request for alternative service. This request must include a sworn statement describing the methods attempted under (b) and stating the defendant's usual place of business or residence, or other place where the defendant can probably be found. The court may authorize the following types of alternative service:

(1) mailing a copy of the citation with a copy of the petition attached by first class mail to the defendant at a specified address, and also leaving a copy of the citation with petition attached at the defendant's residence or other place where the defendant can probably be found with any person found there who is at least 16 years of age; or

(2) mailing a copy of the citation with a copy of the petition attached by first class mail to the defendant at a specified address, and also serving by any other method that the court finds is reasonably likely to provide the defendant with notice of the suit.

(f) *Service by Publication*. In the event that service of citation by publication is necessary, the process is governed by the rules in county and district court.

RULE 501.3. DUTIES OF OFFICER OR PERSON RECEIVING CITATION

(a) *Endorsement; Execution; Return*. The officer or authorized person to whom process is delivered must:

(1) endorse on the process the date and hour on which he or she received it;

(2) execute and return the same without delay; and

(3) complete a return of service, which may, but need not, be endorsed on or attached to the citation.

(b) *Contents of Return*. The return, together with any document to which it is attached, must include the following information:

(1) the case number and case name;

(2) the court in which the case is filed;

(3) a description of what was served;

(4) the date and time the process was received for service;

(5) the person or entity served;

(6) the address served;

(7) the date of service or attempted service;

(8) the manner of delivery of service or attempted service;

(9) the name of the person who served or attempted service;

(10) if the person named in (9) is a process server certified under Supreme Court Order, his or her identification number and the expiration date of his or her certification; and

(11) any other information required by rule or law.

(c) *Citation by Mail*. When the citation is served by registered or certified mail as authorized by Rule 501.2(b)(2), the return by the officer or authorized person must also contain the receipt with the addressee's signature.

(d) *Failure to Serve*. When the officer or authorized person has not served the citation, the return must show the diligence used by the officer or authorized person to execute the same and the cause of failure to execute it, and where the defendant is to be found, if ascertainable.

(e) *Signature*. The officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable, or clerk of the court, the return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is (First) (Middle) (Last) , my date of birth is (Month) (Day), (Year) , and

my address is (Street), (City), (State) (Zip Code), (County) . I declare under penalty of

perjury that the foregoing is true and correct. Executed in _____County, State of_____ , on

the _____day of (Month) , (Year) .

_____

Declarant"

(f) *Alternative Service*. Where citation is executed by an alternative method as authorized by 501.2(e), proof of service must be made in the manner ordered by the court.

(g) *Filing Return*. The return and any document to which it is attached must be filed with the court and may be filed electronically or by fax, if those methods of filing are available.

(h) *Prerequisite for Default Judgment.* No default judgment may be granted in any case until proof of service as provided by this rule, or as ordered by the court in the event

citation is executed by an alternative method under 501.2(e), has been on file with the clerk of the court 3 days, exclusive of the day of filing and the day of judgment.

RULE 501.4. SERVICE OF PAPERS OTHER THAN CITATION

(a) *Method of Service*. Other than a citation or oral motions made during trial or when all parties are present, every notice required by these rules, and every pleading, plea, motion, application to the court for an order, or other form of request, must be served on all other parties in one of the following ways.

> (1) In person. A copy may be delivered to the party to be served, or the party's duly authorized agent or attorney of record, in person or by agent.
>
> (2) Mail or courier. A copy may be sent by courier-receipted delivery or by certified or registered mail, to the party's last known address. Service by certified or registered mail is complete when the document is properly addressed and deposited in the United States mail, postage prepaid.
>
> (3) Fax. A copy may be faxed to the recipient's current fax number. Service by fax after 5:00 p.m. local time of the recipient will be deemed to have been served on the following day.
>
> (4) Email. A copy may be sent to an email address expressly provided by the receiving party, if the party has consented to email service in writing. Service by email after 5:00 p.m. local time of the recipient will be deemed to have been served on the following day.
>
> (5) Other. A copy may be delivered in any other manner directed by the court.

(b) *Timing*. If a document is served by mail, 3 days will be added to the length of time a party has to respond to the document. Notice of any hearing requested by a party must be served on all other parties not less than 3 days before the time specified for the hearing.

(c) *Who May Serve.* Documents other than a citation may be served by a party to the suit, an attorney of record, a sheriff or constable, or by any other person competent to testify.

(d) *Certificate of Service*. The party or the party's attorney of record must include in writing on all documents filed a signed statement describing the manner in which the document was served on the other party or parties and the date of service. A certificate by a party or the party's attorney of record, or the return of the officer, or the sworn statement of any other person showing service of a notice is proof of service.

(e) *Failure to Serve*. A party may offer evidence or testimony that a notice or document was not received, or, if service was by mail, that it was not received within 3 days from the date of mailing, and upon so finding, the court may extend the time for taking the action required of the party or grant other relief as it deems just.

THE 502 SERIES: INSTITUTION OF SUIT

RULE 502.1. PLEADINGS AND MOTIONS MUST BE WRITTEN, SIGNED, AND FILED

Except for oral motions made during trial or when all parties are present, every pleading, plea, motion, application to the court for an order, or other form of request must be written and signed by the party or its attorney and must be filed with the court. A document may be filed with the court by personal or commercial delivery, by mail, or electronically, if the court allows electronic filing.

RULE 502.2. PETITION

(a) *Contents.* To initiate a suit, a petition must be filed with the court. A petition must contain:

(1 the name of the plaintiff:

(2) 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:

(3) the name, address, and telephone number, if known, of the defendant;

(4) the amount of money, if any, the plaintiff seeks;

(5) a description and claimed value of any personal property the plaintiff seeks;

(6) a description of any other relief requested;

(7) the basis for the plaintiff's claim against the defendant; and

(8) 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.

(b) *Justice Court Civil Case Information 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 plaintiff's 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.

RULE 502.3. FEES; INABILITY TO AFFORD FEES

(a) *Fees and Statement of Inability to Afford Payment of Court Costs*. On filing the petition, the plaintiff must pay the appropriate filing fee and service fees, if any, with the court. A plaintiff who is unable to afford to pay the fees must file a Statement of Inability to Afford Payment of Court Costs. Upon filing the Statement, the clerk must docket the action, issue citation, and provide any other customary services.

(b) *Supreme Court Form; Contents of Statement*. The plaintiff must use the form Statement approved by the Supreme Court, or the Statement must include the information required by the Court-approved form. The clerk must make the form available to all persons without charge or request.

(c) *Certificate of Legal-Aid Provider*. If the party is represented by an attorney who is providing free legal services because of the party's indigence, without contingency, and the attorney is providing services either directly or by referral from a legal-aid provider described in Rule 145(e)(2), the attorney may file a certificate confirming that the provider screened the party for eligibility under the income and asset guidelines established by the provider. A Statement that is accompanied by the certificate of a legal-aid provider may not be contested under (d).

(d) *Contest*. Unless a certificate is filed under (c), the defendant may file a contest of the Statement at any time within 7 days after the day the defendant's answer is due. If the Statement attests to receipt of government entitlement based on indigence, the Statement may only be contested with regard to the veracity of the attestation. If contested, the judge must hold a hearing to determine the plaintiff's ability to afford the fees. At the hearing, the burden is on the plaintiff to prove the inability to afford fees. The judge may, regardless of whether the defendant contests the Statement, examine the Statement and conduct a hearing to determine the plaintiff's ability to afford fees. If the judge determines that the plaintiff is able to afford the fees, the judge must enter a written order listing the reasons for the determination, and the plaintiff must pay the fees in the time specified in the order or the case will be dismissed without prejudice.

RULE 502.4. VENUE — WHERE A LAWSUIT MAY BE BROUGHT

(a) *Applicable Law*. Laws specifying the venue – the county and precinct where a lawsuit may be brought – are found in Chapter 15, Subchapter E of the Texas Civil Practice and Remedies Code, which is available online and for examination during the court's business hours.

(b) *General Rule*. Generally, a defendant in a small claims case as described in Rule 500.3(a) or a debt claim case as described in Rule 500.3(b) 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 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.

(c) *Non-Resident Defendant; Defendant's Residence Unknown*. If the defendant is a non-resident of Texas, or if defendant's residence is unknown, the plaintiff may file the suit in the county and precinct where the plaintiff resides.

(d) *Motion to Transfer Venue*. If a plaintiff files suit in an improper venue, a defendant may challenge the venue selected by filing a motion to transfer venue. The motion must be filed before trial, no later than 21 days after the day the defendant's answer is filed, and must contain a sworn statement that the venue chosen by the plaintiff is improper and a specific county and precinct of proper venue to which transfer is sought. If the defendant fails to name a county and precinct, the court must instruct the defendant to do so and allow the defendant 7 days to cure the defect. If the defendant fails to correct the defect, the motion will be denied, and the case will proceed in the county and precinct where it was originally filed.

(1) Procedure.

(A) Judge to Set Hearing. If a defendant files a motion to transfer venue, the judge must set a hearing on the motion.

(B) Response. A plaintiff may file a response to a defendant's motion to transfer venue.

(C) Hearing. The parties may present evidence at the hearing. A witness may testify at a hearing, either in person or, with permission of the court, by means of telephone or an electronic communication system.

(D) Judge's Decision. If the motion is granted, the judge must sign an order designating the court to which the case will be transferred. If the motion is denied, the case will be heard in the court in which the plaintiff initially filed suit.

(E) Review. Motions for rehearing and interlocutory appeals of the judge's ruling on venue are not permitted.

(F) Time for Trial of the Case. No trial may be held until at least the 14th day after the judge's ruling on the motion to transfer venue.

(G) Order. An order granting a motion to transfer venue must state the reason for the transfer and the name of the court to which the transfer is made. When such an order of transfer is made, the judge who issued the

order must immediately make out a true and correct transcript of all the entries made on the docket in the case, certify the transcript , and send the transcript, with a certified copy of the bill of costs and the original papers in the case, to the court in the precinct to which the case has been transferred. The court receiving the case must then notify the plaintiff that the case has been received and, if the case is transferred to a different county, that the plaintiff has 14 days after receiving the notice to pay the filing fee in the new court, or file a sworn statement of inability to pay. The plaintiff is not entitled to a refund of any fees already paid. Failure to pay the fee or file a sworn statement of inability to pay will result in dismissal of the case without prejudice.

(e) *Fair Trial Venue Change*. If a party believes it cannot get a fair trial in a specific precinct or before a specific judge, the party may file a sworn motion stating such, supported by the sworn statements of two other credible persons, and specifying if the party is requesting a change of location or a change of judge. Except for good cause shown, this motion must be filed no less than 7 days before trial. If the party seeks a change of judge, the judge must exchange benches with another qualified justice of the peace, or if no judge is available to exchange benches, the county judge must appoint a visiting judge to hear the case. If the party seeks a change in location, the case must be transferred to the nearest justice court in the county that is not subject to the same or some other disqualification. If there is only one justice of the peace precinct in the county, then the judge must exchange benches with another qualified justice of the peace, or if no judge is available to exchange benches, the county judge must appoint a visiting judge to hear the case. In cases where exclusive jurisdiction is within a specific precinct, as in eviction cases, the only remedy available is a change of judge. A party may apply for relief under this rule only one time in any given lawsuit.

(f) *Transfer of Venue by Consent*. On the written consent of all parties or their attorneys, filed with the court, venue must be transferred to the court of any other justice of the peace of the county, or any other county.

RULE 502.5. ANSWER

(a) *Requirements*. A defendant must file with the court a written answer to a lawsuit as directed by the citation and must also serve a copy of the answer on the plaintiff. The answer must contain:

(1) the name of the defendant;

(2) the name, address, telephone number, and fax number, if any, of the defendant's attorney, if applicable, or the address, telephone number, and fax number, if any, of the defendant; and

(3) if the defendant consents to email service, a statement consenting to email service and email contact information.

(b) *General Denial*. An answer that denies all of the plaintiff's allegations without specifying the reasons is sufficient to constitute an answer or appearance and does not bar the defendant from raising any defense at trial.

(c) *Answer Docketed*. The defendant's appearance must be noted on the court's docket.

(d) *Due Date.* Unless the defendant is served by publication, the defendant's answer is due by the end of the 14th day after the day the defendant was served with the citation and petition, but

> (1) if the 14th day is a Saturday, Sunday, or legal holiday, the answer is due on the next day that is not a Saturday, Sunday, or legal holiday; and
>
> (2) if the 14th day falls on a day during which the court is closed before 5:00 PM, the answer is due on the court's next business day.

(e) *Due Date When Defendant Served by Publication*. If a defendant is served by publication, the defendant's answer is due by the end of the 42nd day after the day the citation was issued, but

> (1) if the 42nd day is a Saturday, Sunday, or legal holiday, the answer is due on the next day that is not a Saturday, Sunday, or legal holiday; or
>
> (2) if the 42nd day falls on a day during which the court is closed before 5:00 PM, the answer is due on the court's next business day.

RULE 502.6. COUNTERCLAIM; CROSS-CLAIM; THIRD-PARTY CLAIM

(a) *Counterclaim*. A defendant may file a petition stating as a counterclaim any claim against a plaintiff that is within the jurisdiction of the justice court, whether or not related to the claims in the plaintiff's petition. The defendant must file a counterclaim petition as provided in Rule 502.2, and must pay a filing fee or provide a Statement of Inability to Afford Payment of Court Costs. The court need not generate a citation for a counterclaim and no answer to the counterclaim need be filed. The defendant must serve a copy of the counterclaim as provided by Rule 501.4.

(b) *Cross-Claim*. A plaintiff seeking relief against another plaintiff, or a defendant seeking relief against another defendant may file a cross-claim. The filing party must file a cross-claim petition as provided in Rule 502.2, and must pay a filing fee or provide a Statement of Inability to Afford Payment of Court Costs. A citation must be issued and served as provided by Rule 501.2 on any party that has not yet filed a petition or an answer, as appropriate. If the party filed against has filed a petition or an answer, the filing party must serve the cross-claim as provided by Rule 501.4.

(c) *Third Party Claim*. A defendant seeking to bring another party into a lawsuit who may be liable for all or part of the plaintiff's claim against the defendant may file a petition as

provided in Rule 502.2, and must pay a filing fee or provide a Statement of Inability to Afford Payment of Court Costs. A citation must be issued and served as provided by Rule 501.2.

RULE 502.7. AMENDING AND CLARIFYING PLEADINGS

(a) *Amending Pleadings*. A party may withdraw something from or add something to a pleading, as long as the amended pleading is filed and served as provided by Rule 501.4 not less than 7 days before trial. The court may allow a pleading to be amended less than 7 days before trial if the amendment will not operate as a surprise to the opposing party.

(b) *Insufficient Pleadings*. A party may file a motion with the court asking that another party be required to clarify a pleading. The court must determine if the pleading is sufficient to place all parties on notice of the issues in the lawsuit, and may hold a hearing to make that determination. If the court determines a pleading is insufficient, the court must order the party to amend the pleading and set a date by which the party must amend. If a party fails to comply with the court's order, the pleading may be stricken.

THE 503 SERIES - DEFAULT JUDGMENT; PRE-TRIAL MATTERS; TRIAL

RULE 503.1. IF DEFENDANT FAILS TO ANSWER

(a) *Default Judgment*. If the defendant fails to file an answer by the date stated in Rule 502.5, the judge must ensure that service was proper, and may hold a hearing for this purpose. If it is determined that service was proper, the judge must render a default judgment in the following manner:

> (1) *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.
>
> (2) *Other Cases*. Except as provided in (1), 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.

(b) *Appearance*. If a defendant files an answer or otherwise appears in a case before a default judgment is signed by the judge, the judge must not enter a default judgment and the case must be set for trial as described in Rule 503.3.

(c) *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.

(d) *Notice*. The plaintiff requesting a default judgment must provide to the clerk in writing the last known mailing address of the defendant at or before the time the judgment is signed. When a default judgment is signed, the clerk must immediately mail written notice of the judgment to the defendant at the address provided by the plaintiff, and note the fact of such mailing on the docket. The notice must state the number and style of the case, the court in which the case is pending, the names of the parties in whose favor and against whom the judgment was rendered, and the date the judgment was signed. Failure to comply with the provisions of this rule does not affect the finality of the judgment.

RULE 503.2. SUMMARY DISPOSITION

(a) *Motion*. A party may file a sworn motion for summary disposition of all or part of a claim or defense without a trial. The motion must set out all supporting facts. All documents on which the motion relies must be attached. The motion must be granted if it shows that:

> (1) there are no genuinely disputed facts that would prevent a judgment in favor of the party;
>
> (2) there is no evidence of one or more essential elements of a defense which the defendant must prove to defeat the plaintiff's claim; or
>
> (3) there is no evidence of one or more essential elements of the plaintiff's claim.

(b) *Response*. The party opposing the motion may file a sworn written response to the motion.

(c) *Hearing*. The court must not consider a motion for summary disposition until it has been on file for at least 14 days. By agreement of the parties, the court may decide the motion and response without a hearing.

(d) *Order*. The court may enter judgment as to the entire case or may specify the facts that are established and direct such further proceedings in the case as are just.

RULE 503.3. SETTINGS AND NOTICE; POSTPONING TRIAL

(a) *Settings and Notice*. After the defendant answers, the case will be set on a pretrial docket or a trial docket at the discretion of the judge. The court must send a notice of the date, time, and place of this setting to all parties at their address of record no less than 45 days before the setting date, unless the judge determines that an earlier setting is required in the interest of justice. Reasonable notice of all subsequent settings must be sent to all parties at their addresses of record.

(b) *Postponing Trial*. A party may file a sworn motion requesting that the trial be postponed. The motion must state why a postponement is necessary. The judge, for good cause, may postpone any suit for a reasonable time.

RULE 503.4. PRETRIAL CONFERENCE

(a) *Conference Set; Issues*. If all parties have appeared in a suit, the court, at any party's request or on its own, may set a case for a pretrial conference. Appropriate issues for the pretrial conference include:

(1) discovery;

(2) the amendment or clarification of pleadings;

(3) the admission of facts and documents to streamline the trial process;

(4) a limitation on the number of witnesses at trial;

(5) the identification of facts, if any, which are not in dispute between the parties;

(6) mediation or other alternative dispute resolution services;

(7) the possibility of settlement;

(8) trial setting dates that are amenable to the court and all parties;

(9) the appointment of interpreters, if needed;

(10) the application of a Rule of Civil Procedure not in Part V or a Rule of Evidence; and

(11) any other issue that the court deems appropriate.

(b) *Eviction Cases*. The court must not schedule a pretrial conference in an eviction case if it would delay trial.

RULE 503.5. ALTERNATIVE DISPUTE RESOLUTION

(a) *State Policy*. 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.

(b) *Eviction Cases*. The court must not order mediation or any other alternative dispute resolution process in an eviction case if it would delay trial.

RULE 503.6. TRIAL

(a) *Docket Called*. On the day of the trial setting, the judge must call all of the cases set for trial that day.

(b) *If Plaintiff Fails to Appear*. If the plaintiff fails to appear when the case is called for trial, the judge may postpone or dismiss the suit.

(c) *If Defendant Fails to Appear*. If the defendant fails to appear when the case is called for trial, the judge may postpone the case, or may proceed to take evidence. If the plaintiff 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.

THE 504 SERIES - 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 Statement of Inability to Afford Payment of Court Costs 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 pay 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 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 must 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.

THE 505 SERIES - 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 parties's rights 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.

THE 506 SERIES - 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 Statement of Inability to Afford Payment of Court Costs 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) *Statement of Inability to Afford Payment of Court Costs*.

> (1) Filing. An appellant who cannot furnish a bond or pay a cash deposit in the amount required may instead file a Statement of Inability to Afford Payment of Court Costs. The Statement must be on the form approved by the Supreme Court or include the information required by the Court-approved form 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 Afford Payment of Court Costs 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 Afford Payment of Court Costs 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 Statement of Inability to Afford Payment of Court Costs 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 Statement of Inability to Afford Payment of Court Costs has 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.

(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.

THE 507 SERIES - 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 blank 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:

(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.

THE 508 SERIES - 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 or 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.

THE 509 SERIES - PROCEEDINGS TO ENFORCE LANDLORD'S DUTY TO REPAIR OR REMEDY RESIDENTIAL RENTAL PROPERTY

RULE 509.1. APPLICABILITY OF RULE

Rule 509 applies to a suit 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 thecourt 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 suit.

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 suit 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.

THE 510 SERIES - EVICTION CASES

RULE 510.1. APPLICATION

Rule 510 applies to a suit 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 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 the filing; 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 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 (2);

(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. 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.

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, 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 Statement of Inability to Afford Payment of Court Costs. 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 suit must not be postponed for more than 7 days 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 or verdict 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 or verdict 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 Statement of Inability to Afford Payment of Court Costs with the justice court within 5 days after the judgment is signed.

(b) *Amount of Security*. 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) *Statement of Inability to Afford Payment of Court Costs*.

(1) Filing; contest. An appellant who cannot furnish a bond or pay a cash deposit in the amount required may instead file a Statement of Inability to Afford Payment of Court Costs. The statement must be on the form approved by the Supreme Court or include the information required by the Court-approved form.

(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 Statement of Inability to Afford Payment of Court Costs, 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 term 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 Statement of Inability to Afford Payment of Court Costs 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 Statement of Inability to Afford Payment of Court Costs 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 Statement of Inability to Afford Payment of Court Costs, 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 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 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 Afford Payment of Court Costs 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 Afford Payment of Court Costs 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.