## REPAIR AND REMEDY CASE PROCEDURES
## RULE 509 TEXAS RULES OF CIVIL PROCEDURE

Repair and Remedy Cases are lawsuits 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. Repair and Remedy Cases are governed by Rule 509 Texas Rules of Civil Procedure.

### LEGAL INFORMATION VS LEGAL ADVICE

**The Judge or Court Personnel cannot give Legal Advice. Below is information the Court can and cannot provide.**

| We Can | We Cannot |
|---|---|
| Explain and answer questions about how the court works. | Tell you whether or not you should bring your case to court. |
| Provide the number of the local lawyer referral service, legal services program, Texas State Bar lawyer referral service, and other services where legal information is available | Tell you what words to use in your court papers. However, we will check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number and presence of attachments. |
| Give general information about court rules, procedure, and practices. | Recommend what to say in court. |
| Provide court schedules and information on how to get a case scheduled. | Give an opinion about what will happen if you bring your case to court. |
| Give you information from your case file. | Talk to the Judge for you or let you talk to the Judge in private. |
| Give you samples of court forms that are available. | Change an order signed by a judge. |
| Usually answer questions about court deadlines | Tell you what deadlines apply in your case. |

### PREPARATION FOR FILING A SMALL CLAIMS SUIT

**PLAINTIFF (TENANT)**: A person who brings a suit before the Court.

**DEFENDANT (LANDLORD)**: One who is being sued.

**COURT COST**: Filing fee is $101.00

**VENUE**: Repair and Remedy Cases must be filed in the County and Precinct where the property in question is located.

1. A Repair and Remedy petition will be needed. This petition is available in the Court or online.

2. Once the petition is filed and the filing fee accepted, the clerk of the court will issue a citation and the citation will be forwarded to the Constable.

3. When the Constable receives the citation from the clerk, he will attempt to serve the Defendant. Ten 10 to 21 days after the Petition is accepted by the Court the case will be heard. The clerk will notify the Plaintiff of a court date at the time the Petition is filed.

## TRIAL

Proceedings in a Repair and Remedy Case are less formal than in other civil courts. The Plaintiff's side of the case will be presented first. The Plaintiff should offer any documents which support the plaintiff's claim and present any witnesses at this time. The Judge may ask some questions to clarify some of the points necessary to reach a fair decision. The Defendant is then entitled to ask questions of the Plaintiff and any witnesses.

After the Plaintiff's case is presented, the Defendant will have an opportunity to present the Defendant's side of the case. It may be the Defendant's position that the Plaintiff is wrong in the way the Plaintiff says the events occurred. The Defendant may say that the Plaintiff's account of the events is correct, but that the Plaintiff is demanding too much money. The Judge can ask the Defendant and any witnesses' questions, and the Plaintiff can ask them questions also.

**On the day of the court hearing, be prepared for trial. Bring all evidence and witnesses that you will need to prove your case. Only facts relevant to your case will be heard.**

## IF THE DEFENDANT PREVAILS

The Plaintiff will recover no money and must pay the court costs. (costs were pre-paid to the court when suit was filed)

## IF THE PLAINTIFF PREVAILS
### Default Judgment or Judgment

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 $10,000.00, excluding interest and court costs but including attorney's fees. The judgment may include:

- Order the landlord to take reasonable action to repair or remedy the condition
- Order a reduction in the tenant's rent, from the date of the first repair notice
- Award a civil penalty of one month's rent plus $500.00
- Award the tenant's actual damages
- Award court costs and attorney's fees, excluding any attorney's fees for a claim for damages relating to a personal injury

## APPEAL

- Either party has the right to appeal to the County Court. To appeal, a party must file a written notice of appeal within twenty-one (21) days from the date of the judgment.

If a party appeals to the County Court, the Clerk of the County Court will notify the other party of the new trial.

The new trial will be held before another Judge or Jury, as if the case had never been tried in the Justice Court.

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**HONORABLE TALYNA CARLSON**
**JUSTICE OF THE PEACE, PCT #3**

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