REPAIR AND REMEDY CASES

INSTRUCTIONS AND INFORMATION REGARDING FILING SUIT

(PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION)

REPAIR AND REMEDY: A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the **Texas Property Code** to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought cannot exceed $10,000.00 excluding statutory interest and court costs but including attorney fees, if any.

LANDLORD'S LIABILITY: A landlord is liable to a tenant to repair or remedy if

1. The tenant has given the landlord proper notice of condition;
2. The condition materially affects the physical health or safety of an ordinary tenant;
3. The tenant has given subsequent written notice to repair or remedy;
4. The landlord has had reasonable time to correct the situation;
5. The landlord has not made and effort to repair or remedy the condition;
6. The tenant was not delinquent in payment of rent at the time notice was given to landlord.

FILING SUIT: Every Repair and Remedy suit must include these documents along with a filing and service fee of $146.00 payable in the form of cash (exact amount), cashier's check, money order or credit card:

- Petition for Repair & Remedy
- Notices to Repair and/or Remedy
- Lease
- Service Members Civil Relief Affidavit
- Certificate of Last Known Address
- Civil Process Additional Information Sheet

CITATION: A citation will immediately issue directing the landlord to appear for a trial date, which is no less than 10 days and no more than 21 days from date the petition is filed. The citation must be served at least 6 days before trial date.

HEARING: The tenant must appear to present his case. If he doesn't appear, the Judge may dismiss the case. If the landlord doesn't appear and was served, the Judge may hear evidence and render judgment.

JUDGMENT: The judgment must be clear and explicit and may include reduction of rent, actual damages, penalty, costs, and attorney fees.

APPEAL: Either party may appeal the judgment within 21 days from the date the judgment is signed.

The laws governing Repair and Remedy can be found in **Chapter 92 of the TEXAS PROPERTY CODE and Rule 509 of the TEXAS RULES OF CIVIL PROCEDURE.**

If you have further questions regarding procedures, you may contact our Civil Clerk; however, she **CANNOT GIVE LEGAL ADVICE.**

CAUSE NO._____

TENANT: _____	§	IN THE JUSTICE COURT
VS.	§	PRECINCT ____ PLACE ___
LANDLORD: _____	§	BRAZOS COUNTY, TEXAS

PETITION FOR REPAIR & REMEDY UNDER CHAPTER 92, SUBCHAPTER B OF THE TEXAS PROPERTY CODE

1. **COMPLAINT: Tenant files this petition to enforce Landlord's duty under Chapter 92, Subchapter B of the Texas Property Code to repair or remedy a condition in Tenant's residential rental property materially affect the physical health or safety of an ordinary tenant. The relief sought can be for no more than $10,000.00, excluding statutory interests and court costs but including attorney fees, if any. Residential Rental Property is located at:**

_____

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

Landlord's Contact Information (if known):

_____

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

2. **SERVICE OF CITATION:** Check the box next to each statement that is true.
   - ☐ Tenant received in writing Landlord's name and business street address.
   - ☐ Tenant received in writing the name and business street address of Landlord's management company.
   - ☐ The name of Landlord's management company is _____. To Tenant's knowledge, this is the Management Company's contact information:

_____

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

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

_____

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

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

_____

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

3. **LEASE AND NOTICE:** Check the box next to each statement that is true.
   - ☐ The lease is in writing; ☐ The lease is oral; ☐ The lease requires notice to repair or remedy a condition to be in writing.
   - ☐ Tenant gave written notice to repair or remedy the condition on _____.
   - ☐ The written notice to repair or remedy the condition was sent by certified mail, return receipt requested, or registered mail on _____.
   - ☐ Tenant gave oral notice to repair or remedy the condition on _____.
   - ☐ Name of person(s) to whom notice was given _____ at _____.

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

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

_____.

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

Tenant Signature:_____ **Date:**_____

_____ _____

Street address Unit No. (if any) Phone Number

_____

City State Zip

CASE NO. _____

_____ Plaintiff(s)	§	IN THE JUSTICE COURT
	§	
VS	§	PRECINCT 4
	§	
_____ Defendant(s)	§	BRAZOS COUNTY, TEXAS

MILITARY STATUS AFFIDAVIT

Plaintiff, or Plaintiffs representative, being duly sworn on oath deposes and says that, to the best of my knowledge, Defendant(s)

_____ is not in the military

_____ is not on active duty in the military

_____ is not in a foreign country on military service

_____ is on active duty and/or is subject to the Service Members Civil Relief Act of 2003

_____ has waived his rights under the Service Members Civil Relief Act of 2003

_____ Military status is unknown at this time

_____
Plaintiff / Representative

SIGNED AND SWORN TO before me on this_____day of_____, 20_____

_____
CLERK OF THE COURT

Department of Defense Service Members Civil Relief Act Website:
https://www.dmdc.osd.mil/appj/scra/

Penalty for making or using a false affidavit - A person who makes or uses an affidavit knowing it to be false, shall be fined as provided in Title 18 United States Code, or imprisoned for not more than one year or both

Cause _____

_____ In the Justice Court

Plaintiff

Vs Precinct Four

_____

Defendant Brazos County, Texas

Certificate of Last Known Mailing Address

The undersigned, _____, does hereby certify that the last known address of Defendant, _____, is as follows:

_____

_____

_____

_____

Signature

Sworn to and subscribed before me on the _____ day of _____, 20_____.

_____

Notary Public

Isaac Butler Jr.
Brazos County Constable Pct 4

Civil Process Additional Information	Cause #

In order to expedite service and for the safety of our Deputies, we ask that you answer the following questions to the best of your ability.

1.	Have you witnessed any "abnormal" behavior?
2.	Have you known, or known of, the Respondent being violent with anyone?
3.	Have you been verbally or physically assaulted by the Respondent?
4.	Known of an occasion where the Respondent has, or brandishes a weapon of any kind? (Please note if the weapon was a firearm, knife, or club or some other weapon.)
5.	Does respondent have any dogs known to be aggressive?
6.	Are you aware of any mental or emotional issues that the Respondent may have?
7.	Are you aware of any police related calls regarding the Respondent?
8.	Are there any other issues you think might be important for the Deputies to know?