

## JUSTICE COURT CIVIL SUITS-REPAIR AND REMEDY

Justice Courts Pct 2 & 4 of Midland County, Texas  
707 West Washington – Midland, Texas 79701  
[www.co.midland.tx.us](http://www.co.midland.tx.us)

**Honorable David M. Cobos**  
**Justice of the Peace, Pct. 2**  
**(432) 688-4735**

**Honorable John W. Barton**  
**Justice of the Peace, Pct. 4**  
**(432) 688-4735**

Instructions and information regarding filing Justice Court Suits. Please read carefully before completing a petition.

**NOTE: SUITS IN JUSTICE COURTS WILL BE GOVERNED BY THE RULES OF CIVIL PROCEDURE FOR JUSTICE COURT CASES ADOPTED BY THE SUPREME COURT OF TEXAS. IT IS HIGHLY RECOMMENDED THAT YOU REVIEW THE TEXAS RULES OF CIVIL PROCEDURE AND RULES OF EVIDENCE PRIOR TO FILING YOUR CASE TO DETERMINE WHICH CATEGORY OF CASE TO FILE.**

**TO REVIEW ALL THE TEXAS RULES OF CIVIL PROCEDURE AND RULES OF EVIDENCE PLEASE FOLLOWING THE LINK TO THE SUPREME COURT OF TEXAS.**

<https://www.txcourts.gov/rules-forms/rules-standards>

**FOLLOW THE LINK FOR MORE INFORMATION AND INSTRUCTIONS ON FILING YOUR CASE**

<https://www.tjctc.org/SRL>.

**THE JUDGE AND COURT PERSONNEL ARE PROHIBITED FROM GIVING “LEGAL ADVICE” TO ANYONE. ALTHOUGH AN ATTORNEY IS NOT REQUIRED, YOU MAY WISH TO CONSULT AN ATTORNEY FOR ANY AND ALL LEGAL ADVICE. IN ADDITION, AS A MATTER OF LAW, THE JUDGE IS PROHIBITED FROM DISCUSSING ANY MATERIAL FACT OF THE LAWSUIT WITH A LITIGANT OR DEFENDANT PRIOR TO TRIAL OR HEARING.**

The Rules for Justice Court classify 4 categories of civil cases.

### **Small Claims Case**

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

### **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, 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.

### **Repair and Remedy Case**

A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$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.

### **Eviction Case**

An eviction case is a lawsuit brought to recover possession of real property under Chapter 24 of the Texas Property Code, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any. 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.

## Midland County Justice Courts Pct.2 and Pct.4

In all civil suits, the defendant generally has the right to be sued in the county and precinct in which he resides. There are exceptions to this venue rule. For detailed information regarding Venue please refer to Rule 502.4 and Chapter 15, Subchapter E of the Texas Civil Practice and Remedies Code. The following link will provide you with access to ALL Texas Laws:

Click on Texas Statutes and choose the Texas Laws you wish to review. <https://statutes.capitol.texas.gov/>

Although not required by Law, it is requested that prior to filing this suit you must send a **Demand letter** to the party you are contemplating suing giving the party at least 10 days to notify them of the potential for civil action and give them an opportunity to satisfy the claim prior to the suit. **It is recommended that this be sent certified mail return receipt requested.**

It is your burden as a plaintiff and it is important that you understand that for any potential judgment you may receive to be valid it is necessary for you to sue the defendant in their proper legal capacity. Consult with your attorney if you are unsure of the defendant's proper legal capacity. Should you file against the wrong entity, you may have to begin again and will have to pay for trial expenses caused by filing against the wrong party. For Corporations and to determine the Agent for Service for a Corporation you should contact **Texas Secretary of State** at 1-800-252-1386.

**AFTER REVIEWING THE RULES, PLEASE FULLY COMPLETE THE APPROPRIATE PETITION AND THE REQUIRED FORMS.**

What must be filed?

### **FOUR ORIGINAL PETITIONS**

**ONE Copy of Demand Letter and signed return receipt, if available**

**ONE Military Affidavit**

**ONE Military Status Report**

**ONE Service Information Sheet**

**ONE Justice Court Case Information Sheet**

Always keep track of your case numbers so that you can refer to them when calling our office regarding your case. The case number will be on your receipt.

**This court does not collect the money judgment for you nor can we force an indigent defendant to pay the judgment.** If you receive a judgment against the defendant this court can issue various instruments to assist you in collecting the judgment. You may request an Abstract of Judgment, Writ of Execution, Writ of Garnishment, and Turnover Order. It is highly recommended that you consult with an attorney for any of these processes as in some instances an attorney is required

An **Abstract of Judgment** puts a lien on any real property the defendant may own in a particular county where the Abstract is recorded. The Abstract is only valid in the county or counties where it is recorded. This can be obtained ten days after the date the judgment is signed.

The **Writ of Execution** may be obtained thirty days after the judgment is signed. This document authorizes the Sheriff or Constable to seize any assets belonging to the defendant that are subject to this writ. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment.

A **Writ of Garnishment** is also available 30 days after the final judgment has been signed. This Garnishment proceeding is a separate suit wherein you are the plaintiff and the defendant's bank becomes the defendant. You are actually suing the bank in which the original defendant has his bank account. You are warning the said bank to freeze the monetary assets of his account and to appear and make answer to the Garnishment suit. **An attorney is required.**

A **Turnover Order** is available after the judgment is signed and its purpose is to provide a court-ordered means of reaching property which cannot easily be reached thorough ordinary legal process and which is not exempt from attachment, execution, etc. **An attorney should be used** because the courts clerical staff will not be able by law to assist you in drafting the documents that are necessary.

Please understand that as a plaintiff, **you have the burden of proof** to show by the preponderance of the evidence that the defendant you are suing is the proximate cause of your damage(s) in the legal capacity in which defendant is sued. All damages and evidence necessary to meet your burden should all be available at the time of filing and no later than the date of the trial.

Midland County Justice Courts Pct.2 and Pct.4

**DISCOVERY: ANY AND ALL PRE TRIAL/PRE JUDGMENT DISCOVERY MUST BE APPROVED BY THE COURT. PLEASE REFER TO SECTION 500.9 OF THE RULES.**

**RULE 501.4 REQUIRES YOU, AS PLAINTIFF OR DEFENDANT, TO SERVE THE OTHER PARTY WITH ANYTHING FILED WITH THE COURT IN THE MANNER PRESCRIBED BY THIS RULE.**

Motions for continuance must be made in writing at least **3** working days in advance of the trial setting with a copy forwarded to the opposing party as required by Rule 501.4. It must show good cause. Do not presume the motion for continuance will be granted merely because it is filed. The court will advise you of its ruling.

**A Subpoena** may be requested if you need a witness(s) in your case. Section 22.001, Texas Civil Practice & Remedies Code states a witness is entitled to **\$10 dollars** for each day the witness attends court. This fee includes the entitlement for travel and the witness is not entitled to any reimbursement for mileage traveled. The **party who summons** the witness shall pay that witness's fee for one day, as provided by this section, at the time the subpoena is served on the witness. The witness fee must be taxed in the bill of costs as other costs.

**Fee Schedule for Eviction suits: (MONEY ORDERS ONLY – NO CASH OR CHECKS ACCEPTED)**

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Filing fee-Defendant in Midland Co.	\$54.00	\$100.00	\$154.00
2 Defendants (same case)	\$54.00	\$200.00	\$254.00
Defendant out-of-County	\$54.00	(call for amount)	

Jury Fee \$22.00  
*(Request for Jury must be made and fee paid no later than 14 days before the case is set for trial. If not timely made, the right to a jury trial is waived).*

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Abstract of Judgment**	\$5.00		\$5.00
Writ of Possession	\$10.00	\$200.00	\$210.00
Writ of Execution	\$69.00	\$200.00	\$269.00
Subpoena	\$10.00	\$100.00	\$110.00
Writ of Garnishment	\$54.00	\$100.00	\$154.00
Turnover Order	\$54.00	\$200.00	\$254.00

**\*\*FEES PER DEFENDANT**

**Midland County Justice Courts Pct.2 and Pct.4**

**CAUSE NO.** \_\_\_\_\_

*(The Clerk's office will fill in the Cause Number when you file this form)*

_____ (Plaintiff - Tenant)	§	IN THE JUSTICE COURT
Vs.	§	PRECINCT NO. _____
_____ (Defendant - Landlord)	§	MIDLAND COUNTY, TEXAS

**REMEDY & REPAIR PETITION FOR RELIEF**  
**UNDER SECTION 92.0563 OF THE TEXAS PROPERTY CODE**

**COMPLAINT:** Plaintiff (*Tenant*) files this petition against the above-named Defendant (*Landlord*) pursuant to Section 92.0563 of the Texas Property Code because there is a condition in the Tenant's residential rental property that would materially affect the health or safety of an ordinary tenant.

**Information Regarding Residential Rental Property:**

Street Address	Unit No. ( <i>If any</i> )	City	County	State	Zip	Phone #
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**Landlord's Contact Information (to extent known):**

Business Address	Unit No. ( <i>If any</i> )	City	County	State	Zip	Phone #
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**1. SERVICE OF CITATION:** Check the box next to each statement that is true.

- Tenant received in writing Landlords name and business street address.
- Tenant received in writing the name and business street address of Landlords Management Company.
- The name of Landlords Management Company is \_\_\_\_\_.

*To Tenant's knowledge, this is the management's company contact information:*

Business Address	Unit No. ( <i>If any</i> )	City	County	State	Zip	Phone #
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- The name of the Landlord's on premise manager is \_\_\_\_\_.

*To Tenants knowledge, this is the on premise manager's contact information:*

Business Address	Unit No. ( <i>If any</i> )	City	County	State	Zip	Phone #
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- The name of Landlord's rent collector serving the residential rental property is \_\_\_\_\_.

*To Tenants knowledge, this is the collector's contact information:*

Business Address	Unit No. ( <i>If any</i> )	City	County	State	Zip	Phone #
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**2. LEASE AND NOTICE:** Check the box next to each statement that is true.

- The lease is oral.  The lease is in writing.  The lease requires the notice to repair 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 certified mail, return receipt requested, or registered mail on: \_\_\_\_\_.
  - Tenant gave oral notice to repair or remedy the condition on: \_\_\_\_\_.
- Name the person to whom notice was given: \_\_\_\_\_.
- Place where notice was given: \_\_\_\_\_.

**3. 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, or  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.*) Tenants 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.

Midland County Justice Courts Pct.2 and Pct.4

4. **PROPERTY CONDITION:** Describe the property condition materially affecting the physical health or safety of an ordinary tenant that Tenant seeks to have repaired or remedied:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

5. **RELIEF REQUESTED:** Tenant requests the following relief:

- A court order to repair or remedy the conditions.
A court order reducing Tenant's rent in the amount of \$ \_\_\_\_\_ to begin on \_\_\_\_\_.
Actual damages on the amount of \$ \_\_\_\_\_.
A civil penalty of one month's rent plus \$500.
Attorney's fees.
Court cost.

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

- I hereby request a jury trial. (The fee is \$22 and must be paid at least 14 days before trial.)
I hereby consent for the answer and any other motions or pleadings to be sent to my E-mail address.

E-MAIL: \_\_\_\_\_

Plaintiff's Printed Name

Signature of Plaintiff or Plaintiff's Attorney

Address of Plaintiff or Plaintiff's Attorney

City State Zip

Phone & Fax No. of Plaintiff or Plaintiff's Attorney

**Midland County Justice Courts Pct.2 and Pct.4**

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_____ (Defendant - Landlord)	§	MIDLAND COUNTY, TEXAS

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*To Tenant's knowledge, this is the management's company contact information:*

Business Address	Unit No. (If any)	City	County	State	Zip	Phone #
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- The name of the Landlord's on premise manager is \_\_\_\_\_.

*To Tenants knowledge, this is the on premise manager's contact information:*

Business Address	Unit No. (If any)	City	County	State	Zip	Phone #
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Business Address	Unit No. (If any)	City	County	State	Zip	Phone #
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E-MAIL: \_\_\_\_\_

Plaintiff's Printed Name

Signature of Plaintiff or Plaintiff's Attorney

Address of Plaintiff or Plaintiff's Attorney

City State Zip

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5. **RELIEF REQUESTED:** Tenant requests the following relief:

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I hereby consent for the answer and any other motions or pleadings to be sent to my E-mail address.

E-MAIL: \_\_\_\_\_

Plaintiff's Printed Name

Signature of Plaintiff or Plaintiff's Attorney

Address of Plaintiff or Plaintiff's Attorney

City State Zip

Phone & Fax No. of Plaintiff or Plaintiff's Attorney

Midland County Justice Courts Pct.2 and Pct.4

In addition to the above information, the Service members' Civil Relief Act has become law. The legislation, passed by Congress and signed by the President, took effect immediately when it was signed on December 19, 2003.

When filing any Civil Suits this form **MUST** be filled out with proof of military status and accompany the complaint upon filing. Military status can be determined at:

<https://scra-w.dmdc.osd.mil/scra/#/home>

The fees remain the same.

(See attached **MILITARY AFFIDAVIT** on next page)

CASE NO. \_\_\_\_\_

**MILITARY AFFIDAVIT  
SEC. 201 (b)**

**Plaintiff being duly sworn on oath deposes and says that defendant(s):**

- Is not in the military.
- Not on active duty in the military and/or
- Not in a foreign country on military service.
- Is on active military duty and/or is subject to the Service members Civil Relief Act of 2003.
- Military status unknown at this time.

\_\_\_\_\_  
PLAINTIFF SIGNATURE

\_\_\_\_\_  
*(Plaintiff Printed Name)*

**Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.**

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS  
CLERK OF THE JUSTICE COURT

**Penalty for making or using 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.**

Department of Defense Manpower Data Center

**EXAMPLE  
ACTIVE**



Status Report  
Pursuant to Servicemembers Civil Relief Act

Last Name: HENRY

First Name:

Middle Name:

Active Duty Status As Of: Aug-13-2012

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
May-14-2002	Still Serving	Yes	Air Force Active Duty
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
4800 Mark Center Drive, Suite 04E25  
Arlington, VA 22350

**SERVICE INFORMATION SHEET**

PLEASE COMPLETE THIS INFORMATION TO EXPEDITE SERVICE OF YOUR PAPERS.

**PLAINTIFF NAME:** \_\_\_\_\_

**RESIDENCE:** \_\_\_\_\_

**PLACE OF EMPLOYMENT:** \_\_\_\_\_

**RESIDENCE PHONE:** \_\_\_\_\_ **WORK PHONE:** \_\_\_\_\_

*Number at which you can be reached or can leave a message:* \_\_\_\_\_

**DAYTIME FAX:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_

\*\*\*\*\*

**DEFENDANT NAME:** \_\_\_\_\_

**RESIDENCE:** \_\_\_\_\_

**PLACE OF EMPLOYMENT:** \_\_\_\_\_

**RESIDENCE PHONE:** \_\_\_\_\_ **WORK PHONE:** \_\_\_\_\_

**MAIL ADDRESS IF DIFFERENT:** \_\_\_\_\_

**TYPE OF RESIDENCE (List gate codes and building #s):**

\_\_\_\_\_

**Description of residence and any special direction:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/2020)**

**CAUSE NUMBER (FOR CLERK USE ONLY):** \_\_\_\_\_

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

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

1. Contact information for person completing case information sheet:		2. Names of parties in case:	
Name: _____	Telephone: _____	Plaintiff(s): _____	
Address: _____	Fax: _____	_____	
City/State/Zip: _____	State Bar No: _____	Defendant(s): _____	
Email: _____		_____	
Signature: _____		_____	
		<b>AND ALL OTHER OCCUPANTS</b> [Attach additional page as necessary to list all parties]	
3. Indicate case type, or identify the most important issue in the case (select only 1):			
<input type="checkbox"/> <b>Debt Claim:</b> A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.		<input type="checkbox"/> <b>Eviction:</b> An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	
<input type="checkbox"/> <b>Repair and Remedy:</b> A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.		<input type="checkbox"/> <b>Small Claims:</b> A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	



Midland County Justice Courts Pct.2 and Pct.4

**DAVID M. COBOS**

Justice of the Peace, Precinct 2  
707 West Washington  
Midland, Texas 79701  
Office: (432)-688-4722  
Fax: (432)-688-4949



**JOHN W. BARTON**

Justice of the Peace, Precinct 4  
707 West Washington  
Midland, Texas 79701  
Office: (432)-688-4724  
Fax: (432)-688-4949

**MIDLAND COUNTY**

**DATE:** \_\_\_\_\_

**REQUEST FORM**

**I,** \_\_\_\_\_,  
(Please print NAME)

**REQUEST FROM THIS COURT:** (please be specific and include case numbers if applicable)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Signature**