

Tex. R. Civ. P. 500

This document is current through March 25, 2019

**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 500 General Rules

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.

500.2. Definitions.--In Part V of these Rules of Civil Procedure:

- (a) "Answer" is the written response that a party who is sued must file with the court after being served with a citation.
- (b) "Citation" is the court-issued 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 the lawsuit, 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, the defendants can seek relief against each other 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 a party 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 or entity 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 a party 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.

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, 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.
- (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, 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 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.
- (d) **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

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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 do 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.

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, 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.

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; and

(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.

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.

500.7. Exclusion of Witnesses.--The court must, on a party's request, or may, on its own initiative, 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.

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 date, 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 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 fine 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.

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 discovery 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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

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RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 501 Citation and Service

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 plaintiff fails to do so, the clerk may make copies and charge the plaintiff the allowable copying cost.

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,

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property or thing, or process requiring that an enforcement action be 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.

501.3. Duties of Officer or Person Receiving Citation; Return of Service.

(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;

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- (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.

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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013; Amended by Texas Supreme Court, Misc. Docket No. 16-9122, effective September 1, 2016.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

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Rule 502 Institution of Suit

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. Electronic filing is governed by Rule 21.

502.2. Petition.

(a) **Contents.**--To initiate a lawsuit, 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 [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) [Repealed]

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. The Statement must either be sworn to before a notary or made under penalty of perjury. 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.

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 Statement of Inability to Afford Payment of Court Costs. The plaintiff is not entitled to a refund of any fees already paid. Failure to pay the fee or file a Statement 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.

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 p.m., 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; and

(2)if the 42nd day falls on a day during which the court is closed before 5:00 p.m., the answer is due on the court's next business day.

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.

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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013; Amended by Texas Supreme Court, Misc. Docket No. 13-9165, effective January 1, 2014; Amended by Texas Supreme Court, Misc. Docket No. 16-9056, as approved by Texas Supreme Court, Misc. Docket No. 16-9122, effective September 1, 2016; Amended by Texas Supreme Court, Misc. Docket No. 19-9017, effective February 26, 2019.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May

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1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

2013 amendment, by Texas Supreme Court, Misc. Docket No. 13-9165, added "Electronic filing is governed by Rule 21." to the end of 502.1.

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[Tex. R. Civ. P. 502 Form](#)

This document is current through March 25, 2019

***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General***

Rule 502 Form Justice Court Civil Case Information Sheet [Repealed]

(Repealed by Texas Supreme Court, Misc. Docket No. 19-9017, effective February 26, 2019.)

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 503 Default Judgment; Pre-Trial Matters; Trial

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.

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. The judge may consider evidence offered by the parties at the hearing. By agreement of the parties, the judge may decide the motion and response without a hearing.

(d) **Order.**--The judge 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.

503.3. **Settings and Notice; Postponing Trial.**

(a) **Settings and Notice.**--After the defendant answers, the case will be set on 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 motion requesting that the trial be postponed. The motion must state why a postponement is necessary. The judge, for good cause, may postpone any trial for a reasonable time.

503.4. **Pretrial Conference.**

(a) **Conference Set; Issues.**--If all parties have appeared in a lawsuit, the court, at any party's request or on its own, may set a case for a pretrial conference. Reasonable notice must be sent to all parties at their addresses of record. 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.

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.

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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

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Tex. R. Civ. P. 504

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 504 Jury

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 pays the fee withdraws the demand, the case will remain on the jury docket unless all other parties present agree to try the case without a jury. A party that withdraws its jury demand is not entitled to a refund of the jury fee.
- (d) **No Demand.**--If no party timely demands a jury and pays the fee, the judge will try the case without a jury.

504.2. Empaneling the Jury.

- (a) **Drawing Jury and Oath.**--If no method of electronic draw has been implemented, the judge must write the names of all prospective jurors present on separate slips of paper as nearly alike as may be, place them in a box, mix them well, and then draw the names one by one from the box. The judge must list the names drawn and deliver a copy to each of the parties or their attorneys.
- (b) **Oath.**--After the draw, the judge must swear the panel as follows: "You solemnly swear or affirm that you will give true and correct answers to all questions asked of you concerning your qualifications as a juror."
- (c) **Questioning the Jury.**--The judge, the parties, or their attorneys will be allowed to question jurors as to their ability to serve impartially in the trial but may not ask the jurors how they will rule in the case. The judge will have discretion to allow or disallow specific questions and determine the amount of time each side will have for this process.
- (d) **Challenge for Cause.**--A party may challenge any juror for cause. A challenge for cause is an objection made to a juror alleging some fact, such as a bias or prejudice, that disqualifies the juror from serving in the case or that renders the juror unfit to sit on the jury. The challenge must be made during jury questioning. The party must explain to the judge why the juror should be excluded from the jury. The judge must evaluate the questions and answers given and either grant or deny the challenge. When a challenge for cause has been sustained, the juror must be excused.
- (e) **Challenges Not for Cause.**--After the judge determines any challenges for cause, each party may select up to 3 jurors to excuse for any reason or no reason at all. But no prospective juror may be excused for membership in a constitutionally protected class.
- (f) **The Jury.**--After all challenges, the first 6 prospective jurors remaining on the list constitute the jury to try the case.

(g) If Jury is Incomplete.--If challenges reduce the number of prospective jurors below 6, the judge may direct the sheriff or constable to summon others and allow them to be questioned and challenged by the parties as before, until at least 6 remain.

(h) Jury Sworn.--When the jury has been selected, the judge must require them to take substantially the following oath: "You solemnly swear or affirm that you will render a true verdict according to the law and the evidence presented."

504.3. Jury Not Charged.--The judge must not charge the jury.

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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013; Amended by Texas Supreme Court, Misc. Docket No. 16-9122, effective September 1, 2016.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 505 Judgment; New Trial

505.1. Judgment.

(a) **Judgment Upon Jury Verdict.**--Where a jury has returned a verdict, the judge must announce the verdict in open court, note it in the court's docket, and render judgment accordingly. The judge may render judgment on the verdict or, if the verdict is contrary to the law or the evidence, judgment notwithstanding the verdict.

(b) **Case Tried by Judge.**--When a case has been tried before the judge without a jury, the judge must announce the decision in open court, note the decision in the court's docket, and render judgment accordingly.

(c) **Form.**--A judgment must:

- (1) clearly state the determination of the rights of the parties in the case;
- (2) state who must pay the costs;
- (3) be signed by the judge; and
- (4) be dated the date of the judge's signature.

(d) **Costs.**--The judge must award costs allowed by law to the successful party.

(e) **Judgment for Specific Articles.**--Where the judgment is for the recovery of specific articles, the judgment must order that the plaintiff recover such specific articles, if they can be found, and if not, then their value as assessed by the judge or jury with interest at the prevailing post-judgment interest rate.

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.

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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

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Tex. R. Civ. P. 506

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 506 Appeal

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.

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.

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.

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 below.

(j) Amendment of Bond or Oath.--The affidavit or bond may be amended at the discretion of the court in which it is filed.

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

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013; Amended by Texas Supreme Court, Misc. Docket No. 16-9122, effective September 1, 2016.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

Annotations

Case Notes

Civil Procedure: Appeals: Appellate Jurisdiction: General Overview
Governments: Courts: Justice Courts

LexisNexis (R) Notes

Civil Procedure: Appeals: Appellate Jurisdiction: General Overview

1. County court erred as a matter of law by entering judgment that purported to confirm a justice court's judgment in favor of a bank in its forcible-detainer action against the property occupants because the occupants were entitled to trial de novo in the county court, as their appeal to the county court annulled the justice court's judgment. [Markham v. Deutsche Bank Nat'l Trust Co., 2013 Tex. App. LEXIS 12429 \(Tex. App. Corpus Christi Oct. 3 2013\)](#).

2. County court erred as a matter of law by rendering judgment that purported to confirm a justice court's judgment in favor of a mortgage company's successor in its forcible-detainer action against the occupants of the property because the occupants were entitled to trial de novo in the county court, as their appeal to the county court annulled the justice court's judgment. The occupants asked the county court multiple times to receive evidence in a trial de novo even if it rejected their subject-matter jurisdiction argument. [Thompson v. Green Tree Servicing, Llc, 2013 Tex. App. LEXIS 12430 \(Tex. App. Corpus Christi Oct. 3 2013\)](#).

Governments: Courts: Justice Courts

3. County court erred as a matter of law by entering judgment that purported to confirm a justice court's judgment in favor of a bank in its forcible-detainer action against the property occupants because the occupants were entitled to trial de novo in the county court, as their appeal to the county court annulled the justice court's judgment. [Markham](#)

[v. Deutsche Bank Nat'l Trust Co., 2013 Tex. App. LEXIS 12429 \(Tex. App. Corpus Christi Oct. 3 2013\).](#)

4. County court erred as a matter of law by rendering judgment that purported to confirm a justice court's judgment in favor of a mortgage company's successor in its forcible-detainer action against the occupants of the property because the occupants were entitled to trial de novo in the county court, as their appeal to the county court annulled the justice court's judgment. The occupants asked the county court multiple times to receive evidence in a trial de novo even if it rejected their subject-matter jurisdiction argument. [Thompson v. Green Tree Servicing, Llc, 2013 Tex. App. LEXIS 12430 \(Tex. App. Corpus Christi Oct. 3 2013\).](#)

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Tex. R. Civ. P. 507

This document is current through March 25, 2019

**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 507 Administrative Rules for Judges and Court Personnel

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.

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

507.3. Docket and Other Records.

(a) Docket.--Each judge must keep a civil docket in a permanent record containing the following information:

- (1)**the title of all suits commenced before the court;
- (2)**the date when the first process was issued against the defendant, when returnable, and the nature of that process;
- (3)**the date when the parties, or either of them, appeared before the court, either with or without a citation;
- (4)**a description of the petition and any documents filed with the petition;
- (5)**every adjournment, stating at whose request and to what time;
- (6)**the date of the trial, stating whether the same was by a jury or by the judge;
- (7)**the verdict of the jury, if any;
- (8)**the judgment signed by the judge and the date the judgment was signed;
- (9)**all applications for setting aside judgments or granting new trials and the orders of the judge thereon, with the date;
- (10)**the date of issuing execution, to whom directed and delivered, and the amount of debt, damages and costs and, when any execution is returned, the date of the return and the manner in which it was executed; and
- (11)**all stays and appeals that may be taken, and the date when taken, the amount of the bond and the names of the sureties.

(b) Other Records.--The judge must also keep copies of all documents filed; other dockets, books, and records as may be required by law or these rules; and a fee book in which all costs accruing in every suit commenced before the court are taxed.

(c) Form of Records.--All records required to be kept under this rule may be maintained electronically.

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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

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Tex. R. Civ. P. 508

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 508 Debt Claim Cases

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.

508.2. Petition.

(a) Contents.--In addition to the information required by Rule 502.2, a petition filed in a lawsuit governed by this rule must contain the following information:

(1) Credit Accounts.--In a claim based upon a credit card, revolving credit, or open account, the petition must state:

- (A)**the account name or credit card name;
- (B)**the account number (which may be masked);
- (C)**the date of issue or origination of the account, if known;
- (D)**the date of charge-off or breach of the account, if known;
- (E)**the amount owed as of a date certain; and
- (F)**whether the plaintiff seeks ongoing interest.

(2) Personal and Business Loans.--In a claim based upon a promissory note or other promise to pay a specific amount as of a date certain, the petition must state:

- (A)**the date and amount of the original loan;
- (B)**whether the repayment of the debt was accelerated, if known;
- (C)**the date final payment was due;
- (D)**the amount due as of the final payment date;
- (E)**the amount owed as of a date certain; and
- (F)**whether plaintiff seeks ongoing interest.

(3) Ongoing Interest.--If a plaintiff seeks ongoing interest, the petition must state:

- (A)**the effective interest rate claimed;
- (B)**whether the interest rate is based upon contract or statute; and
- (C)**the dollar amount of interest claimed as of a date certain.

(4) Assigned Debt.--If the debt that is the subject of the claim has been assigned or transferred, the petition must state:

- (A)**that the debt claim has been transferred or assigned;
- (B)**the date of the transfer or assignment;

- (C)the name of any prior holders of the debt; and
- (D)the name or a description of the original creditor.

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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

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Tex. R. Civ. P. 509

This document is current through March 25, 2019

**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 509 Repair and Remedy Cases

509.1. Applicability of Rule.--Rule 509 applies to a lawsuit filed in a justice court by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant.

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.

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.

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;

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(B) within 24 hours of complying with (b)(2)(A), sending by first class mail a true copy of the citation, petition, and any attachments addressed to the landlord at the landlord's business street address provided in the petition; and

(C) noting on the return of the citation the date of delivery under (b)(2)(A) and the date of mailing under (b)(2)(B).

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

509.5. Docketing and Trial; Failure to Appear.

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

(b) Failure to Appear.

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

(2) If the tenant fails to appear for trial, the judge may dismiss the lawsuit.

509.6. Judgment: Amount; Form and Content; Issuance and Service; Failure to Comply.

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

(b) Form and Content.

(1) The judgment must be in writing, signed, and dated and must include the names of the parties to the proceeding and the street address of the residential rental property where the condition is to be repaired or remedied.

(2) In the judgment, the judge may:

(A) order the landlord to take reasonable action to repair or remedy the condition;

(B) order a reduction in the tenant's rent, from the date of the first repair notice, in proportion to the reduced rental value resulting from the condition until the condition is repaired or remedied;

(C) award a civil penalty of one month's rent plus \$ 500;

(D) award the tenant's actual damages; and

(E) award court costs and attorney's fees, excluding any attorney's fees for a claim for damages relating to a personal injury.

(3) If the judge orders the landlord to repair or remedy a condition, the judgment must include in reasonable detail the actions the landlord must take to repair or remedy the condition and the date when the repair or remedy must be completed.

(4) If the judge orders a reduction in the tenant's rent, the judgment must state:

(A) the amount of the rent the tenant must pay, if any;

(B) the frequency with which the tenant must pay the rent;

(C) the condition justifying the reduction of rent;

(D)the effective date of the order reducing rent;

(E)that the order reducing rent will terminate on the date the condition is repaired or remedied; and

(F)that on the day the condition is repaired or remedied, the landlord must give the tenant written notice, served in accordance with Rule 501.4, that the condition justifying the reduction of rent has been repaired or remedied and the rent will revert to the rent amount specified in the lease.

(c) Issuance and Service.--The judge must issue the judgment. The judgment may be served on the landlord in open court or by any means provided in Rule 501.4 at an address listed in the citation, the address listed on any answer, or such other address the landlord furnishes to the court in writing. Unless the judge serves the landlord in open court or by other means provided in Rule 501.4, the sheriff, constable, or other authorized person who serves the landlord must promptly file a return of service in the justice court.

(d) Failure to Comply.--If the landlord fails to comply with an order to repair or remedy a condition or reduce the tenant's rent, the failure is grounds for citing the landlord for contempt of court under Section 21.002 of the Texas Government Code.

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.

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.

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.

History

Added by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

EDITOR'S NOTE. --

Tex. R. Civ. P. 509

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500-510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General**

Rule 510 Eviction Cases

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

510.2. Computation of Time for Eviction Cases.--Rule 500.5 applies to the computation of time in an eviction case. But if a document is filed by mail and not received by the court by the due date, the court may take any action authorized by these rules, including issuing a writ of possession requiring a tenant to leave the property.

510.3. Petition.

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

- (1) a description, including the address, if any, of the premises that the plaintiff seeks possession of;
- (2) a description of the facts and the grounds for eviction;
- (3) a description of when and how notice to vacate was delivered;
- (4) the total amount of rent due and unpaid at the time of filing, if any; and
- (5) a statement that attorney fees are being sought, if applicable.

(b) Where Filed.--The petition must be filed in the precinct where the premises is located. If it is filed elsewhere, the judge must dismiss the case. The plaintiff will not be entitled to a refund of the filing fee, but will be refunded any service fees paid if the case is dismissed before service is attempted.

(c) Defendants Named.--If the eviction is based on a written residential lease, the plaintiff must name as defendants all tenants obligated under the lease residing at the premises whom plaintiff seeks to evict. No judgment or writ of possession may issue or be executed against a tenant obligated under a lease and residing at the premises who is not named in the petition and served with citation.

(d) Claim for Rent.--A claim for rent within the justice court's jurisdiction may be asserted in an eviction case.

(e) Only Issue.--The court must adjudicate the right to actual possession and not title. Counterclaims and the joinder of suits against third parties are not permitted in eviction cases. A claim that is not asserted because of this rule can be brought in a separate suit in a court of proper jurisdiction.

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;

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

(b) Service and Return of Citation.

- (1) **Who May Serve.**--Unless otherwise authorized by written court order, citation must be served by a sheriff or constable.
- (2) **Method of Service.**--The constable, sheriff, or other person authorized by written court order receiving the citation must execute it by delivering a copy with a copy of the petition attached to the defendant, or by leaving a copy with a copy of the petition attached with some person, other than the plaintiff, over the age of 16 years, at the defendant's usual place of residence, at least 6 days before the day set for trial.
- (3) **Return of Service.**--At least one day before the day set for trial, the constable, sheriff, or other person authorized by written court order must complete and file a return of service in accordance with Rule 501.3 with the court that issued the citation.

(c) Alternative Service by Delivery to the Premises.

- (1) **When Allowed.**--The citation may be served by delivery to the premises if:
 - (A) the constable, sheriff, or other person authorized by written court order is unsuccessful in serving the citation under (b);
 - (B) the petition lists all home and work addresses of the defendant that are known to the plaintiff and states that the plaintiff knows of no other home or work addresses of the defendant in the county where the premises are located; and
 - (C) the constable, sheriff, or other person authorized files a sworn statement that it has made diligent efforts to serve such citation on at least two occasions at all addresses of the defendant in the county where the premises are located, stating the times and places of attempted service.
- (2) **Authorization.**--The judge must promptly consider a sworn statement filed under (1)(C) and determine whether citation may be served by delivery to the premises. The plaintiff is not required to make a request or motion for alternative service.
- (3) **Method.**--If the judge authorizes service by delivery to the premises, the constable, sheriff, or other person authorized by written court order must, at least 6 days before the day set for trial:

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(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.

510.5. Request for Immediate Possession.

(a) **Immediate Possession Bond.**--The plaintiff may, at the time of filing the petition or at any time prior to final judgment, file a possession bond to be approved by the judge in the probable amount of costs of suit and damages that may result to defendant in the event that the suit has been improperly instituted, and conditioned that the plaintiff will pay defendant all such costs and damages that are adjudged against plaintiff.

(b) **Notice to Defendant.**--The court must notify a defendant that the plaintiff has filed a possession bond. The notice must be served in the same manner as service of citation and must inform the defendant that if the defendant does not file an answer or appear for trial, and judgment for possession is granted by default, an officer will place the plaintiff in possession of the property on or after the 7th day after the date defendant is served with the notice.

(c) **Time for Issuance and Execution of Writ.**--If judgment for possession is rendered by default and a possession bond has been filed, approved, and served under this rule, a writ of possession must issue immediately upon demand and payment of any required fees. The writ must not be executed before the 7th day after the date defendant is served with notice under (b).

(d) **Effect of Appearance.**--If the defendant files an answer or appears at trial, no writ of possession may issue before the 6th day after the date a judgment for possession is signed or the day following the deadline for the defendant to appeal the judgment, whichever is later.

510.6. Trial Date; Answer; Default Judgment.

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

(b) **Default Judgment.**--If the defendant fails to appear at trial and fails to file an answer before the case is called for trial, and proof of service has been filed in accordance with Rule 510.4, the allegations of the complaint must be taken as admitted and judgment by default rendered accordingly. If a defendant who has answered fails to appear for trial, the court may proceed to hear evidence and render judgment accordingly.

(c) **Notice of Default.**--When a default judgment is signed, the clerk must immediately mail written notice of the judgment by first class mail to the defendant at the address of the premises.

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 case must not be postponed for more than 7 days total unless both parties agree in writing.

510.8. Judgment; Writ; No New Trial.

(a) Judgment Upon Jury Verdict.--Where a jury has returned a verdict, the judge may render judgment on the verdict or, if the verdict is contrary to the law or the evidence, judgment notwithstanding the verdict.

(b) Judgment for Plaintiff.--If the judgment is in favor of the plaintiff, the judge must render judgment for plaintiff for possession of the premises, costs, delinquent rent as of the date of entry of judgment, if any, and attorney fees if recoverable by law.

(c) Judgment for Defendant.--If the judgment is in favor of the defendant, the judge must render judgment for defendant against the plaintiff for costs and attorney fees if recoverable by law.

(d) Writ.--If the judgment or verdict is in favor of the plaintiff, the judge must award a writ of possession upon demand of the plaintiff and payment of any required fees.

(1) Time to Issue.--Except as provided by Rule 510.5, no writ of possession may issue before the 6th day after the date a judgment for possession is signed or the day following the deadline for the defendant to appeal the judgment, whichever is later. A writ of possession may not issue more than 60 days after a judgment for possession is signed. For good cause, the court may extend the deadline for issuance to 90 days after a judgment for possession is signed.

(2) Time to Execute.--A writ of possession may not be executed after the 90th day after a judgment for possession is signed.

(3) Effect of Appeal.--A writ of possession must not issue if an appeal is perfected and, if applicable, rent is paid into the registry, as required by these rules.

(e) No Motion For New Trial.--No motion for new trial may be filed.

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; Terms.--The justice court judge will set the amount of the bond or cash deposit to include the items enumerated in Rule 510.11. The bond or cash deposit must be payable to the appellee and must be conditioned on the appellant's prosecution of its appeal to effect and payment of any judgment and all costs rendered against it on appeal.

(c) 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.

(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 terms of the rental agreement, that the defendant must pay into the justice court registry;
- (ii)**whether the initial deposit must be paid in cash, cashier's check, or money order, and to whom the cashier's check or money order, if applicable, must be made payable;
- (iii)**the calendar date by which the initial deposit must be paid into the justice court registry, which must be within 5 days of the date the Statement 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 is required to pay only the portion claimed to be owed by the defendant until the issue is tried in county court.
- (iv)**If the defendant fails to pay the designated amount into the court registry within the time limits prescribed by these rules, the plaintiff may file a sworn motion that the defendant is in default in county court. The plaintiff must notify the defendant of the motion and the hearing date. Upon a showing that the defendant is in default, the court must issue a writ of possession.
- (v)**The plaintiff may withdraw any or all rent in the county court registry upon sworn motion and hearing, prior to final determination of the case, showing just cause; dismissal of the appeal; or order of the court after final hearing.

(vi) All hearings and motions under this subparagraph are entitled to precedence in the county court.

(d) Notice to Other Parties Required.--If a Statement of Inability to 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.

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.

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.

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.

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.

History

EDITOR'S NOTE. --

Texas Supreme Court Misc. Docket No. 13-9049 provides: "[Rules of Civil Procedure 500--510](#) govern cases filed on or after August 31, 2013, and cases pending on August 31, 2013, except to the extent that in the opinion of the court their application in a case pending on August 31, 2013, would not be feasible or would work injustice, in which event the formerly applicable procedure applies. An action taken before August 31, 2013, in a case pending on May 1, 2013, that was done pursuant to any previously applicable procedure must be treated as valid. Where citation or other process was issued or served prior to August 31, 2013, in compliance with any previously applicable procedure, the party served has the time provided for under the previously applicable procedure to answer or otherwise respond."

Annotations

Case Notes

Civil Procedure: Justiciability: Mootness: General Overview
 Civil Procedure: Justiciability: Mootness: Real Controversy Requirement
 Civil Procedure: Justiciability: Standing: General Overview
 Civil Procedure: Jurisdiction: Subject Matter Jurisdiction: General Overview
 Civil Procedure: Jurisdiction: Subject Matter Jurisdiction: Jurisdiction Over Actions: General Overview
 Civil Procedure: Judgments: Entry of Judgments: Stays Pending Appeals: Supersedeas Bonds
 Civil Procedure: Judgments: Preclusion & Effect of Judgments: Res Judicata
 Civil Procedure: Remedies: Costs & Attorney Fees: Attorney Expenses & Fees: General Overview
 Real Property Law: Financing: Mortgages & Other Security Instruments: Foreclosures: General Overview
 Real Property Law: Financing: Mortgages & Other Security Instruments: Foreclosures: Defenses
 Real Property Law: Financing: Mortgages & Other Security Instruments: Foreclosures: Private Power-of-Sale Foreclosure
 Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: General Overview
 Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: Forcible Entry & Detainer
 Real Property Law: Title Quality: Adverse Claim Actions: Unlawful Detainer

LexisNexis (R) Notes

Civil Procedure: Justiciability: Mootness: General Overview

1. In a forcible detainer action following a foreclosure sale, an appeal by the former possessors was moot because they did not file a supersedeas bond as required by this provision, the judgment was executed, and the foreclosure purchaser took possession; the validity of the underlying foreclosure and sale could not be resolved in the forcible detainer proceeding. [Garcia v. Green Tree Servicing LLC, 2014 Tex. App. LEXIS 3969](#) (Tex. App. Corpus Christi Apr. 10, 2014).

Civil Procedure: Justiciability: Mootness: Real Controversy Requirement

2. In a forcible detainer proceeding, tenants no longer had actual possession of the property. As a result, there was no longer a live controversy concerning possession to decide, and the tenants' appeal was moot. [Resendez v. FV REO I, LLC, 2014 Tex. App. LEXIS 1096](#) (Tex. App. Austin Jan. 31, 2014).

Civil Procedure: Justiciability: Standing: General Overview

3. Bank established a connection to the property sufficient to show standing bring a forcible detainer action, because the clerk's record included: the substitute trustee's deed which recited that the bank purchased the property at the foreclosure sale, the deed of trust, and the notice to the occupant to vacate. [Reese v. Bank of Am., N.A., 2014 Tex. App. LEXIS 9080](#) (Tex. App. Dallas Aug. 15, 2014).

Civil Procedure: Jurisdiction: Subject Matter Jurisdiction: General Overview

4. Trial court had subject matter jurisdiction to issue a writ of possession in a forcible detainer action because it was not necessary for the court to determine whether there were defects in the foreclosure process or with appellee's title to the property. The court merely determined that appellee was entitled to immediate possession. [Martin v. Fannie Mae, 2014 Tex. App. LEXIS 7301](#) (Tex. App. Dallas July 7 2014).

Civil Procedure: Jurisdiction: Subject Matter Jurisdiction: Jurisdiction Over Actions: General Overview

5. County court at law had jurisdiction over the eviction case, and the housing authority's suit for rent was properly joined in the eviction action under [Tex. R. Civ. P. 510.3. James v. Houston Hous. Auth., 2014 Tex. App. LEXIS 7791](#) (Tex. App. Houston 14th Dist. July 17 2014).

Civil Procedure: Judgments: Entry of Judgments: Stays Pending Appeals: Supersedeas Bonds

6. On appeal of a judgment of possession in a forcible-detainer action where the tenant's issues were limited to the trial court's failure to set an amount for supersedeas bond, her appeal was dismissed because she failed to provide a potential basis for a claim that she was entitled to actual possession of the premises. [Peck v. Fed. Home Loan Mortg. Corp., 2013 Tex. App. LEXIS 15154](#) (Tex. App. Austin Dec. 18 2013).

Civil Procedure: Judgments: Preclusion & Effect of Judgments: Res Judicata

7. County court's judgment for a tenant in a forcible entry and detainer action adjudicated no issues other than the right of immediate possession and therefore was not res judicata in a district court action addressing the validity of a commercial lease extension. To the extent inconsistent, [Glau-Moya Parapsychology Training Inst., Inc. v. Royal Life Ins. Co., 507 S.W.2d 824](#) (1974), was overruled. [AAA Free Move Ministorage, LLC. v. Ois Invs., Inc., 419 S.W.3d 522, 2013 Tex. App. LEXIS 13336](#) (Tex. App. San Antonio 2013).

Civil Procedure: Remedies: Costs & Attorney Fees: Attorney Expenses & Fees: General Overview

8. Award of attorney fees and costs to a landlord's agent in its forcible detainer action was proper because the tenant had contractually obligated herself in the rental agreement to pay attorney fees and costs, and the amount awarded was reasonable. [Stewart v. Warren Props., 2014 Tex. App. LEXIS 1249](#) (Tex. App. San Antonio Feb. 5 2014).

Real Property Law: Financing: Mortgages & Other Security Instruments: Foreclosures: General Overview

9. In a forcible detainer suit, the trial court did not err by granting possession of real property to the bank because it proved its entitlement to immediate possession of property purchased at a foreclosure sale. As the deed of trust showed the borrower became a tenant at sufferance by refusing to surrender possession of the property after it was sold at a foreclosure sale, it was not necessary to resolve a title dispute to determine the right of possession.

[Campbell v. Wells Fargo Bank, N.A., 2013 Tex. App. LEXIS 15400 \(Tex. App. Austin Dec. 20 2013\).](#)

10. Trial court could not resolve a mortgagor's claims that the sale of the property at a foreclosure sale was invalid in a forcible detainer action, and the mortgagor's separate suit concerned title, not possession of the property, and had been resolved. [Bierwirth v. Fannie Mae, 2014 Tex. App. LEXIS 2242 \(Tex. App. Austin Feb. 27 2014\).](#)

Real Property Law: Financing: Mortgages & Other Security Instruments: Foreclosures: Defenses

11. Where the bank purchased property at a foreclosure sale and sent the occupant a notice to vacate, the appellate court could not determine whether the foreclosure sale was void due to the bank's failure to timely record the notice of sale because invalidity of the sale of property under a deed of trust could not be litigated in the forcible detainer action. [Reese v. Bank of Am., N.A., 2014 Tex. App. LEXIS 9080 \(Tex. App. Dallas Aug. 15, 2014\).](#)

Real Property Law: Financing: Mortgages & Other Security Instruments: Foreclosures: Private Power-of-Sale Foreclosure

12. Tenants argued that the sale of the property had to be set aside because the homeowners association did not provide proper notice prior to proceeding with their action to obtain the underlying judgment; however, any defects in the underlying foreclosure process may not be considered in a forcible-detainer action. [Garcia v. Perrett, 2014 Tex. App. LEXIS 8799 \(Tex. App. Houston 1st Dist. Aug. 12 2014\).](#)

13. Deed of trust creating a landlord-tenant relationship upon foreclosure provided an independent basis to determine the right to possession in a forcible detainer action under former [Tex. R. Civ. P. 746](#) without resolving a question of title, and sufficient evidence established the purchaser's right to immediate possession; moreover, abatement was not required while the occupant's separate wrongful foreclosure action was pending. [Jaimes v. Fannie Mae, 2013 Tex. App. LEXIS 14615 \(Tex. App. Austin Dec. 4, 2013\).](#)

Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: General Overview

14. County court at law had jurisdiction over the eviction case, and the housing authority's suit for rent was properly joined in the eviction action under [Tex. R. Civ. P. 510.3](#). [James v. Houston Hous. Auth., 2014 Tex. App. LEXIS 7791 \(Tex. App. Houston 14th Dist. July 17 2014\).](#)

Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: Forcible Entry & Detainer

15. Tenants argued that the sale of the property had to be set aside because the homeowners association did not provide proper notice prior to proceeding with their action to obtain the underlying judgment; however, any defects in the underlying foreclosure process may not be considered in a forcible-detainer action. [Garcia v. Perrett, 2014 Tex. App. LEXIS 8799 \(Tex. App. Houston 1st Dist. Aug. 12 2014\).](#)

16. Trial court had subject matter jurisdiction to issue a writ of possession in a forcible detainer action because it was not necessary for the court to determine whether there were defects in the foreclosure process or with appellee's title to the property. The court merely determined that appellee was entitled to immediate possession. [Martin v. Fannie Mae, 2014 Tex. App. LEXIS 7301 \(Tex. App. Dallas July 7 2014\).](#)

17. Award of attorney fees and costs to a landlord's agent in its forcible detainer action was proper because the tenant had contractually obligated herself in the rental agreement to pay attorney fees and costs, and the amount awarded was reasonable. [Stewart v. Warren Props., 2014 Tex. App. LEXIS 1249 \(Tex. App. San Antonio Feb. 5 2014\).](#)

18. In a forcible detainer suit, the trial court did not err by granting possession of real property to the bank because it proved its entitlement to immediate possession of property purchased at a foreclosure sale. As the deed of trust showed the borrower became a tenant at sufferance by refusing to surrender possession of the property after it was sold at a foreclosure sale, it was not necessary to resolve a title dispute to determine the right of possession. [Campbell v. Wells Fargo Bank, N.A., 2013 Tex. App. LEXIS 15400 \(Tex. App. Austin Dec. 20 2013\).](#)

19. On appeal of a judgment of possession in a forcible-detainer action where the tenant's issues were limited to the trial court's failure to set an amount for supersedeas bond, her appeal was dismissed because she failed to provide a potential basis for a claim that she was entitled to actual possession of the premises. [Peck v. Fed. Home Loan Mortg. Corp., 2013 Tex. App. LEXIS 15154 \(Tex. App. Austin Dec. 18 2013\).](#)

20. Deed of trust creating a landlord-tenant relationship upon foreclosure provided an independent basis to determine the right to possession in a forcible detainer action under former [Tex. R. Civ. P. 746](#) without resolving a question of title, and sufficient evidence established the purchaser's right to immediate possession; moreover, abatement was not required while the occupant's separate wrongful foreclosure action was pending. [Jaimes v. Fannie Mae, 2013 Tex. App. LEXIS 14615 \(Tex. App. Austin Dec. 4, 2013\).](#)

21. County court's judgment for a tenant in a forcible entry and detainer action adjudicated no issues other than the right of immediate possession and therefore was not res judicata in a district court action addressing the validity of a commercial lease extension. To the extent inconsistent, [Glau-Moya Parapsychology Training Inst., Inc. v. Royal Life Ins. Co., 507 S.W.2d 824 \(1974\)](#), was overruled. [AAA Free Move Ministorage, LLC. v. Ois Invs., Inc., 419 S.W.3d 522, 2013 Tex. App. LEXIS 13336 \(Tex. App. San Antonio 2013\).](#)

22. Trial court could not resolve a mortgagor's claims that the sale of the property at a foreclosure sale was invalid in a forcible detainer action, and the mortgagor's separate suit concerned title, not possession of the property, and had been resolved. [Bierwirth v. Fannie Mae, 2014 Tex. App. LEXIS 2242 \(Tex. App. Austin Feb. 27 2014\).](#)

Real Property Law: Title Quality: Adverse Claim Actions: Unlawful Detainer

23. Bank established a connection to the property sufficient to show standing bring a forcible detainer action, because the clerk's record included: the substitute trustee's deed which recited that the bank purchased the property at the foreclosure sale, the deed of trust, and the notice to the occupant to vacate. [Reese v. Bank of Am., N.A., 2014 Tex. App. LEXIS 9080 \(Tex. App. Dallas Aug. 15, 2014\).](#)

24. Where the bank purchased property at a foreclosure sale and sent the occupant a notice to vacate, any issue concerning the bank's place in the property's chain of title could not be litigated in the forcible detainer action. [Reese v. Bank of Am., N.A., 2014 Tex. App. LEXIS 9080 \(Tex. App. Dallas Aug. 15, 2014\).](#)

25. Where the bank purchased property at a foreclosure sale and sent the occupant a notice to vacate, the appellate court could not determine whether the foreclosure sale was void due to the bank's failure to timely record

the notice of sale because invalidity of the sale of property under a deed of trust could not be litigated in the forcible detainer action. [Reese v. Bank of Am., N.A., 2014 Tex. App. LEXIS 9080](#) (Tex. App. Dallas Aug. 15, 2014).

Texas Rules

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[Tex. R. Civ. P. 523](#)

This document is current through March 25, 2019

***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 1. General***

Rule 523 District Court Rules Govern [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Arts. 2381 and 2410.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100.

Case Notes

Civil Procedure: Judgments: Relief From Judgment: Motions to Alter & Amend
Civil Procedure: Appeals: Reviewability: Time Limitations
Governments: Courts: Justice Courts

LexisNexis (R) Notes

Civil Procedure: Judgments: Relief From Judgment: Motions to Alter & Amend

1. Trial court had plenary power to grant a new trial or to vacate, modify, correct, or reform its judgment within 30 days after the judgment was signed under [Tex. R. Civ. P. 329b\(d\)](#), but nothing in the Rules of Civil Procedure suggested that [Tex. R. Civ. P. 329b\(d\)](#), grant of plenary power, applied to the justice courts, such that it appeared that justice courts, unlike district and county courts, did not have a 30-day grant of plenary power, and the justice court's October 23 modified judgment was signed outside the court's period of plenary power and was void. [Ramirez v. Archie, 2004 Tex. App. LEXIS 5167 \(Tex. App. El Paso June 10 2004\)](#).

Civil Procedure: Appeals: Reviewability: Time Limitations

2. Were the appellate court to apply [Tex. R. Civ. P. 306a\(4\)](#) to the case at hand, after twenty days, the plenary power of the justice court would have already expired, and the appellate court was without authority to divine a comparable set of time periods in instances where a party did not receive notice of a signed judgment from a justice court; the club owner did have notice that judgment had been rendered, but failed to timely file a motion for new trial and he was not left without a remedy. [Westwood Shores Country Club v. Hendrickson, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).

Governments: Courts: Justice Courts

3. Were the appellate court to apply [Tex. R. Civ. P. 306a\(4\)](#) to the case at hand, after twenty days, the plenary power of the justice court would have already expired, and the appellate court was without authority to divine a comparable set of time periods in instances where a party did not receive notice of a signed judgment from a justice court; the club owner did have notice that judgment had been rendered, but failed to timely file a motion for new trial and he was not left without a remedy. [Westwood Shores Country Club v. Hendrickson, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).

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[Tex. R. Civ. P. 524](#)

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 2. Institution of Suit**

Rule 524 Docket [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2382, unchanged.

Change by amendment effective January 1, 1981: The words "rendered" and "rendering" are changed to "signed" and "signing."

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 525](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 2. Institution of Suit***

Rule 525 Oral Pleadings [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2388.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 526](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 2. Institution of Suit***

Rule 526 Sworn Pleadings [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2389.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 527](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 2. Institution of Suit***

Rule 527 Motion to Transfer [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2389, subdivision 1, with minor textual change.

Change by amendment effective September 1, 1983: To conform to S.B. 898, 68th Legislature, 1983.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

Texas Rules

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
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Rule 528 Venue Changed on Affidavit [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2394, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100.

Case Notes

Civil Procedure: Judicial Officers: Judges: Disqualifications & Recusals: General Overview
Governments: Courts: Judges

LexisNexis (R) Notes

Civil Procedure: Judicial Officers: Judges: Disqualifications & Recusals: General Overview

1. Summary judgment in favor of the attorney, dismissing the claimant's fraudulent lien action under Tex. Civ. Prac. & Rem. Code Ann. ch. 12 was proper, because the justice court judge did not err by refusing to apply [Tex. R. Civ. P. 18a](#), when [Tex. R. Civ. P. 18a](#) did not apply to justice courts, and the claimant cited no authority and presented no argument that the justice court lacked the authority to assess attorney fees against a litigant as a sanction. *Merritt v. Davis*, 331 S.W.3d 857, 2011 Tex. App. LEXIS 633 (Tex. App. Dallas 2011).

Governments: Courts: Judges

2. Summary judgment in favor of the attorney, dismissing the claimant's fraudulent lien action under Tex. Civ. Prac. & Rem. Code Ann. ch. 12 was proper, because the justice court judge did not err by refusing to apply [Tex. R. Civ. P. 18a](#), when [Tex. R. Civ. P. 18a](#) did not apply to justice courts, and the claimant cited no authority and presented no argument that the justice court lacked the authority to assess attorney fees against a litigant as a sanction. *Merritt v. Davis*, 331 S.W.3d 857, 2011 Tex. App. LEXIS 633 (Tex. App. Dallas 2011).

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Rule 529 "Nearest Justice" Defined [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2395, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 530 By Consent [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2396, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 531 Order of Transfer [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2397, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 532 Transcript [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2398, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 533 Requisites of Process [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2400.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 534 Issuance and Form of Citation [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

History

Amended by Texas Supreme Court, Misc. Docket No. 11-9250, effective January 1, 2012.

EDITOR'S NOTE. --

Texas Supreme Court, Misc. Docket No. 11-9250 provides: "The provisions allowing a return of service to be filed electronically or by facsimile when those methods of filing are available supersede any contradictory local rules or court orders."

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

2011 amendment, by G.O. 11-9250, added the fourth sentence in (a).

Annotations

Notes

Change by amendment effective September 1, 1990: To conform justice court service of citation to the extent practicable to service of citation for other trial courts.

SOURCE: Art. 2401.

*Change by amendment effective September 1, 1990:*To conform justice court service of citation to the extent practicable to service of citation for other trial courts.

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Rule 535 Answer Filed [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Arts. 2009 and 2404.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 536 Who May Serve and Method of Service [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2402, with minor textual change.

Case Notes

LexisNexis (R) Notes

Civil Procedure: Pleading & Practice: Service of Process: Methods: Mail

1. Summary judgment record conclusively established that a company did not serve the apartment complex owner by mail, nor was there service on an agent or clerk employed in the owner's office, place of business, or agency, for purposes of [Tex. R. Civ. P. 536\(b\)\(2\)](#) and Tex. Civ. Prac. & Rem. Code Ann. § 17.021(a)(2)(A); thus, the trial court did not err in finding that the owner was not properly served. [Tarrant Restoration v. TX Arlington Oaks Apts., Ltd., 225 S.W.3d 721, 2007 Tex. App. LEXIS 2867 \(Tex. App. Dallas 2007\)](#).

2. By proving lack of service under [Tex. R. Civ. P. 536\(b\)\(2\)](#) and Tex. Civ. Prac. & Rem. Code Ann. § 17.021, an apartment complex owner conclusively established the third and only element for a bill of review that it was required to prove, and thus its bill of review action was not barred for failure to exhaust legal remedies, as suggested by appellants. [Tarrant Restoration v. TX Arlington Oaks Apts., Ltd., 225 S.W.3d 721, 2007 Tex. App. LEXIS 2867 \(Tex. App. Dallas 2007\)](#).

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[Tex. R. Civ. P. 536a](#)

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Rule 536a Duty of Officer or Person Receiving and Return of Citation [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

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Rule 537 Appearance Day [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2404.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

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Rule 538 If Defendant Fails to Appear [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2405.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 539 Appearance Noted [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2406, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 540 If No Demand for Jury [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2407, with minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 541 Continuance [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2403, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 542 Call of Non-Jury Docket [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2408, with minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 543 Dismissal [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2409, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

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Rule 544 Jury Trial Demanded [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2411, with minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 545 Jury Trial Day [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2412, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 546 Call of Jury Docket [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2419.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

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Rule 547 Challenge to the Array [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2420, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 548 Drawing Jury [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2421, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

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Rule 549 Challenge for Cause [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2422, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 550 Peremptory Challenge [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2423.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

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Rule 551 The Jury [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2424, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

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Rule 552 If Jury is Incomplete [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2425, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

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Rule 553 Jury Sworn [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2426, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 554 Justice Shall Not Charge Jury [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2410 (part), unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 555 Verdict [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2427, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100.

Case Notes

LexisNexis (R) Notes

Civil Procedure: Judgments: Entry of Judgments: Enforcement & Execution: Exemptions

1. Pursuant to former Tex. Rev. Civ. Stat. Ann. art. 2427 (now [Tex. R. Civ. P. 555](#)), a creditor had the right at the time of trial to make an election of exemptions. [Hall v. Miller, 21 Tex. Civ. App. 336, 51 S.W. 36, 1899 Tex. App. LEXIS 352 \(Tex. Civ. App. Austin 1899\)](#).

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[Tex. R. Civ. P. 556](#)

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Rule 556 Judgment upon Verdict [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2429, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 557 Case Tried by Justice [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2430, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 558 Judgment [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2431, with minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Rule 559 Costs [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2432, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100.

Case Notes

LexisNexis (R) Notes

Civil Procedure: Remedies: Costs & Attorney Fees: Costs: General Overview

1. At the time of final judgment, the individual was a third-party defendant as to certain claims, and he requested costs regarding those claims, but those claims were dismissed and not raised on appeal; however, he was not a party to the affirmative causes on which judgment was rendered, and the award of damages, fees, and interest pertained to those claims, and thus all recoveries in his favor except costs and interest on such costs could not stand. [*Berryman's South Fork, Inc. v. J. Baxter Brinkmann Int'l Corp.*, 418 S.W.3d 172, 2013 Tex. App. LEXIS 14226 \(Tex. App. Dallas 2013\).](#)

Texas Rules

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[Tex. R. Civ. P. 560](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 4. Judgment***

Rule 560 Judgment for Specific Articles [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2433, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 561](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 4. Judgment***

Rule 561 To Enforce Judgment [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2434, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 4. Judgment***

Rule 562 No Judgment Without Citation [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2435, shortened by minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 563](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 4. Judgment***

Rule 563 Confession of Judgment [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2436, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 564](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 4. Judgment***

Rule 564 Warrant of Attorney [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2437, with minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 4. Judgment***

Rule 565 Rules Governing [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2438.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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Tex. R. Civ. P. 566

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 5. New Trial**

Rule 566 Judgments by Default [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2439, unchanged.

Change by amendment effective January 1, 1981: The first sentence is changed by deleting "the rendition of" following "after" and by adding "is signed" following "dismissal."

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 567](#)

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Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V. RULES OF PRACTICE IN JUSTICE COURTS > SECTION 5. New Trial

Rule 567 New Trials [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2440, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100.

Case Notes

Civil Procedure: Judgments: Entry of Judgments: Stays of Proceedings: General Overview
Civil Procedure: Judgments: Relief From Judgment: Motions for New Trials
Civil Procedure: Appeals: Reviewability: Time Limitations
Governments: Courts: Justice Courts

LexisNexis (R) Notes

Civil Procedure: Judgments: Entry of Judgments: Stays of Proceedings: General Overview

1. Filing of a motion for new trial does not enlarge the time period for filing an appeal bond. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).

2. Where a party filed a motion for new trial without filing the appeal bond within 20 days of the date the judgment was rendered, the county court at law was without jurisdiction to hear the appeal, and the appeal was properly dismissed. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).

Civil Procedure: Judgments: Relief From Judgment: Motions for New Trials

3. Where the claimant's appeal bond was not timely filed, the county court was without jurisdiction to hear the appeal from the justice court denying the claimant's motion for a new trial, and the claimant's motion for new trial, filed July 26, was overruled by operation of law no later than July 28, 20-days after judgment was rendered was

August 7, 10-days after the claimant's motion for new trial was overruled by operation of law, and the justice court's attempt to deny the motion for new trial on August 15 had no effect on the timetable; therefore, the claimant's appeal bond, filed August 23 was untimely. [Lawson v. Carranza, 2004 Tex. App. LEXIS 6724 \(Tex. App. Houston 14th Dist. July 20 2004\)](#).

4. [Tex. R. Civ. P. 567](#) provided that a justice, within 10 days after the rendition of a judgment in any suit tried before him, may grant a new trial, and a motion for new trial in justice court was overruled by operation of law if the justice had not acted on the motion on the tenth day after the rendition of the judgment; thus, a party who filed a motion for new trial in a justice court had a maximum period of 20 days from the signing of the judgment to file an appeal, and where the justice court set aside its judgment and signed a modified judgment 12 days after rendition of the judgment, there was nothing in the record to indicate that any party filed a motion for new trial or motion to set aside the judgment within 5 days after the rendition of the judgment on October 11, 2001, such that the justice court's October 23 modified judgment was signed outside the court's period of plenary power and was void. [Ramirez v. Archie, 2004 Tex. App. LEXIS 5167 \(Tex. App. El Paso June 10 2004\)](#).

5. Filing of a motion for new trial does not enlarge the time period for filing an appeal bond. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).

6. Where a party filed a motion for new trial without filing the appeal bond within 20 days of the date the judgment was rendered, the county court at law was without jurisdiction to hear the appeal, and the appeal was properly dismissed. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).

Civil Procedure: Appeals: Reviewability: Time Limitations

7. Justice court's ordering the club owner to pay \$3,000 in attorney's fees at trial constituted its rendition of judgment; however, the owner declined to file a motion for new trial and he did not file his appeal bond with the justice court in an attempt to perfect his appeal to the county court at law until on or about April 6, 2010, and as such, because the owner did not timely perfect his appeal, the county court at law lacked jurisdiction to consider it. [Westwood Shores Country Club v. Hendrickson, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).

8. Appellate court could not compel the county court at law to conduct a proceeding over which it had no jurisdiction, because instead of filing an appeal bond or proof of inability to pay the costs of appeal the inmate filed a motion to set aside the judgment on September 1, 2008, the inmate's motion was overruled by operation of law on September 5, 2008, ten days after the small claims court rendered judgment, the latest date on which the inmate could have timely taken action to perfect his appeal to the county court at law was September 15, 2008, ten days after his motion was overruled by operation of law, and the inmate did not file his notice of appeal until September 24, 2008, so the county court at law was without jurisdiction to consider his untimely appeal. [Bell v. County Court at Law No. 2, 2009 Tex. App. LEXIS 8608 \(Tex. App. Fort Worth Oct. 15 2009\)](#).

9. Where a party filed a motion for new trial without filing the appeal bond within 20 days of the date the judgment was rendered, the county court at law was without jurisdiction to hear the appeal, and the appeal was properly dismissed. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).

Governments: Courts: Justice Courts

10. Justice court's ordering the club owner to pay \$3,000 in attorney's fees at trial constituted its rendition of judgment; however, the owner declined to file a motion for new trial and he did not file his appeal bond with the justice court in an attempt to perfect his appeal to the county court at law until on or about April 6, 2010, and as such, because the owner did not timely perfect his appeal, the county court at law lacked jurisdiction to consider it.

[*Westwood Shores Country Club v. Hendrickson*, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\).](#)

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[Tex. R. Civ. P. 568](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 5. New Trial***

Rule 568 [Repealed]

Repealed effective January 1, 1988.

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[Tex. R. Civ. P. 569](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 5. New Trial***

Rule 569 Notice [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2442, with minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 570](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 5. New Trial***

Rule 570 But One New Trial [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2444.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100.

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[Tex. R. Civ. P. 571](#)

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Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V. RULES OF PRACTICE IN JUSTICE COURTS > SECTION 6. Appeal

Rule 571 Appeal Bond [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

§/ SOURCE: Arts. 2456 and 2457 (part).

Change: Allowing ten days from order overruling motion for new trial during which appeal bond may be filed. Transfer to this rule of provision of Art. 2457 prohibiting dismissals for defects without allowing time to amend.

Change by amendment effective September 1, 1962: Provision added requiring notice of filing of appeal bond.

Change by amendment effective January 1, 1967: Provision added requiring the filing of an appeal bond by a plaintiff whose claim is denied in whole or in part.

Change by amendment effective January 1, 1981: The first part of the first sentence is changed to read: "The party appealing, his agent or attorney, shall within ten days from the date a judgment or order overruling motion for new trial is signed, file with the justice a bond" The remainder of the rule is unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.001.

Case Notes

Civil Procedure: Pleading & Practice: Defenses, Demurrers & Objections: Failures to State Claims
Civil Procedure: Pleading & Practice: Service of Process: Methods: Mail
Civil Procedure: Judgments: Entry of Judgments: Stays Pending Appeals: Supersedeas Bonds
Civil Procedure: Judgments: Entry of Judgments: Stays of Proceedings: General Overview
Civil Procedure: Judgments: Relief From Judgment: Bills of Review
Civil Procedure: Judgments: Relief From Judgment: Motions for New Trials
Civil Procedure: Remedies: Bonds: General Overview
Civil Procedure: Remedies: Bonds: Sureties: Liability
Civil Procedure: Appeals: General Overview
Civil Procedure: Appeals: Appellate Jurisdiction: General Overview
Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review
Civil Procedure: Appeals: Costs & Attorney Fees
Civil Procedure: Appeals: Dismissals of Appeals: Involuntary Dismissals
Civil Procedure: Appeals: Reviewability: General Overview

Civil Procedure: Appeals: Reviewability: Notice of Appeal
 Civil Procedure: Appeals: Reviewability: Preservation for Review
 Civil Procedure: Appeals: Reviewability: Time Limitations
 Contracts Law: Contract Interpretation: Ambiguities & Contra Proferentem: General Overview
 Governments: Courts: Justice Courts
 Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: Forcible Entry & Detainer
 Real Property Law: Title Quality: Adverse Claim Actions: Unlawful Detainer

LexisNexis (R) Notes

Civil Procedure: Pleading & Practice: Defenses, Demurrers & Objections: Failures to State Claims

1. Although [Tex. R. Civ. P. 571](#) provides for a five-day period within which to correct defects, that provision applies to defects in the appeal bond, not to defects in the pleadings in the county court at law; hence, it was not error to dismiss an appeal from a justice court judgment, without an opportunity to amend, for failure to state a cause of action. [Rodriguez v. Seider, 2005 Tex. App. LEXIS 2374 \(Tex. App. Austin Mar. 31 2005\)](#).

Civil Procedure: Pleading & Practice: Service of Process: Methods: Mail

2. Where appellant maintained that because he perfected an appeal to the county court for trial de novo, appellee could not rely on a justice court judgment to establish her affirmative defense of res judicata, the court of appeals found that appellant mailed his appeal bond pursuant to [Tex. R. Civ. P. 571](#), within the parameters of the mailbox rule, [Tex. R. Civ. P. 5](#); therefore, he timely perfected his appeal pursuant to [Tex. R. Civ. P. 573](#); thus, appellee did not establish a prior final judgment by a court of competent jurisdiction, and so the trial court erred by granting her motion for summary judgment on the basis of res judicata. [Guevara v. Nolot, 2006 Tex. App. LEXIS 4387 \(Tex. App. Dallas May 23 2006\)](#).

Civil Procedure: Judgments: Entry of Judgments: Stays Pending Appeals: Supersedeas Bonds

3. In a forcible entry and detainer case where the occupants failed to file a notice of appeal or motion for extension until several months after the expiration of the appellate deadline, the occupants made a bona fide attempt to perfect their appeal by depositing security to supersede the judgment within the appellate deadlines. The occupants' deposit of the amount of security ordered by the trial court to prevent enforcement of the judgment conferred appellate jurisdiction and required the appellate court to afford them a reasonable opportunity to file their notice of appeal to cure the formal defect. [Epstein v. Bank of Am., N.A., 2013 Tex. App. LEXIS 13848 \(Tex. App. Austin Nov. 8 2013\)](#).

4. Where the trial court entered judgment against a boat owner in suit bought by a homeowner whose property was damaged by the boat during a hurricane, the county court at law lacked jurisdiction over the boat owner's appeal because his appeal bond was filed more than ten days after the entry of judgment; the court rejected his claim that failure to timely file an appeal bond was an error of form or substance as contemplated by [Tex. R. Civ. P. 571](#) which provided appellants with five days to cure deficiencies after notice, as this would permit an indefinite extension of the time to perfect an appeal. [Reel v. Ruiz, 2013 Tex. App. LEXIS 10605 \(Tex. App. Houston 1st Dist. Aug. 22 2013\)](#).

Civil Procedure: Judgments: Entry of Judgments: Stays of Proceedings: General Overview

Tex. R. Civ. P. 571

5. Amount of appeal bond from a justice court judgment was sufficient because the amounts awarded on the claim and the counterclaim were properly offset in determining the required amount of the bond. [Rodriguez v. Seider, 2005 Tex. App. LEXIS 2374 \(Tex. App. Austin Mar. 31 2005\)](#).
6. Although [Tex. R. Civ. P. 571](#) provides for a five-day period within which to correct defects, that provision applies to defects in the appeal bond, not to defects in the pleadings in the county court at law; hence, it was not error to dismiss an appeal from a justice court judgment, without an opportunity to amend, for failure to state a cause of action. [Rodriguez v. Seider, 2005 Tex. App. LEXIS 2374 \(Tex. App. Austin Mar. 31 2005\)](#).
7. Where a party filed a motion for new trial without filing the appeal bond within 20 days of the date the judgment was rendered, the county court at law was without jurisdiction to hear the appeal, and the appeal was properly dismissed. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).
8. Where [Tex. R. Civ. P. 571](#) provides an additional 10-day period in which to file an appeal bond, when a party files a motion for new trial, that party has a maximum of 20 days to file an appeal bond. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).

Civil Procedure: Judgments: Relief From Judgment: Bills of Review

9. County court lacked jurisdiction to decide a landlord's forcible detainer action under [Tex. R. Civ. P. 746](#) because two tenants failed to perfect an appeal of either the judgment of a justice court or that court's denial of their bill of review; they could not later file a new bill of review in the county court to challenge the justice court's judgment. The justice court did not acquire jurisdiction over the case pursuant to [Tex. R. Civ. P. 749](#) because the tenants did not file an appeal bond within 5 days of the judgment of the justice court. [Adams v. Ross, 2013 Tex. App. LEXIS 2974 \(Tex. App. Houston 1st Dist. Mar. 21 2013\)](#).

Civil Procedure: Judgments: Relief From Judgment: Motions for New Trials

10. Where the claimant's appeal bond was not timely filed, the county court was without jurisdiction to hear the appeal from the justice court denying the claimant's motion for a new trial, and the claimant's motion for new trial, filed July 26, was overruled by operation of law no later than July 28, 20-days after judgment was rendered was August 7, 10-days after the claimant's motion for new trial was overruled by operation of law, and the justice court's attempt to deny the motion for new trial on August 15 had no effect on the timetable; therefore, the claimant's appeal bond, filed August 23 was untimely. [Lawson v. Carranza, 2004 Tex. App. LEXIS 6724 \(Tex. App. Houston 14th Dist. July 20 2004\)](#).
11. Under [Tex. R. Civ. P. 571](#), a party appealing a judgment from a justice court had 10 days from the date a judgment or order overruling a motion for new trial is signed to file an appeal bond with the justice court, such that a party who filed a motion for new trial in a justice court had a maximum period of 20 days from the signing of the judgment to file an appeal; the justice court rendered its judgment on October 11, 2001 and on October 23, 2001, 12 days after the judgment was rendered, the justice court set aside its judgment and signed a modified judgment, and there was nothing in the record to indicate that any party filed a motion for new trial or motion to set aside the judgment within 5 days after the rendition of the judgment on October 11, 2001, such that the justice court's October 23 modified judgment was signed outside the court's period of plenary power and was void. [Ramirez v.](#)

[Archie, 2004 Tex. App. LEXIS 5167 \(Tex. App. El Paso June 10 2004\).](#)

12. Where a party filed a motion for new trial without filing the appeal bond within 20 days of the date the judgment was rendered, the county court at law was without jurisdiction to hear the appeal, and the appeal was properly dismissed. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).

13. Where [Tex. R. Civ. P. 571](#) provides an additional 10-day period in which to file an appeal bond, when a party files a motion for new trial, that party has a maximum of 20 days to file an appeal bond. [Lawson v. Carranza, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [2004 Tex. App. LEXIS 6724](#) (Tex. App. Houston 14th Dist. July 20, 2004).

Civil Procedure: Remedies: Bonds: General Overview

14. Under [Tex. R. Civ. P. 571](#), the homeowner was afforded opportunity to amend the bond, and failed to do so; the county court did not dismiss the appeal until well over five days after the homeowner received notice of the defect. [Slay v. Nationstar Mortgage, L.L.C., 2012 Tex. App. LEXIS 1660](#) (Tex. App. Fort Worth Mar. 1, 2012).

15. County court lacked jurisdiction over appellant's appeal and properly granted appellee's motion to dismiss; because appellant failed to meet all the requirements of [Tex. R. Civ. P. 571](#) and [573](#), his appeal was not perfected. [Litoff v. Meadows Serv. Corp., 352 S.W.3d 894, 2011 Tex. App. LEXIS 8978 \(Tex. App. Dallas 2011\)](#).

16. Appellee's bond was defective under [Tex. R. Civ. P. 571](#) because it listed no sureties as required. [Rowe v. Watkins, 340 S.W.3d 860, 2011 Tex. App. LEXIS 2067 \(Tex. App. El Paso 2011\)](#).

17. Appellee was notified of her defective bond under [Tex. R. Civ. P. 571](#), and thus she had five days to correct the appeal bond, but she did not timely do so, and the county court lacked jurisdiction over the appeal. [Rowe v. Watkins, 340 S.W.3d 860, 2011 Tex. App. LEXIS 2067 \(Tex. App. El Paso 2011\)](#).

18. Because the appeal bond was defective on its face by failing to contain two or more sureties, appellant's notice of the defect was sufficient to trigger the five-day correction period under [Tex. R. Civ. P. 571](#), and because appellee did not timely correct her appeal bond, the county court lacked jurisdiction over the case. [Rowe v. Watkins, 340 S.W.3d 860, 2011 Tex. App. LEXIS 2067 \(Tex. App. El Paso 2011\)](#).

Civil Procedure: Remedies: Bonds: Sureties: Liability

19. Appeal bond agreement that specified the maximum amount of the surety's liability was not ambiguous; although an appeal from the justice court to the county court resulted in an additional award of exemplary damages, neither the agreement nor [Tex. R. Civ. P. 571](#) limited the damages recoverable from the surety to actual damages and court costs. [Kendziorski v. Saunders, 191 S.W.3d 395, 2006 Tex. App. LEXIS 2596 \(Tex. App. Austin 2006\)](#).

Civil Procedure: Appeals: General Overview

Tex. R. Civ. P. 571

20. County court lacked jurisdiction over an appeal from a justice court in a negligence case because there was no indication that a bond required by [Tex. R. Civ. P. 571](#) had been filed; a cash deposit with a county treasurer was affirmative evidence that a condominium association did not file the required appellate bond, and it was not sufficient to comply with Rule 571. Without the proper filing of a proper appeal bond in the justice court within 10 days of the judgment, the approval of the bond by the justice court, and the subsequent transmittal of the documents required by [Tex. R. Civ. P. 574](#), the county court lacked jurisdiction. [Gundogan v. Woodgrove Condo. Ass'n, 2009 Tex. App. LEXIS 4499 \(Tex. App. Houston 1st Dist. June 18 2009\)](#).

21. In a case arising from a car accident, a county court at law should not have dismissed a case based on an alleged untimely filing of an appeal bond because the bond was made within 5 days of the filing of a plea to the jurisdiction, pursuant to [Tex. R. Civ. P. 571](#); a letter requesting a copy of the bond did not serve to provide notice of defects in procedure or a failure to file the bond. The letter merely requested a copy of the bond that had been filed and stated that an attorney had not received notice of any such filing. [Watkins v. Debusk, 286 S.W.3d 58, 2009 Tex. App. LEXIS 2763 \(Tex. App. El Paso 2009\)](#).

22. County court did not err in dismissing the appeal due to an insufficient bond and granting the motion to dismiss because despite having more than five days to post a proper bond, the occupant failed to do so. [Heldt v. 12811 El Sendero Trust #0415022, 2005 Tex. App. LEXIS 8973 \(Tex. App. San Antonio June 22 2005\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: General Overview

23. County court lacked jurisdiction over an appeal from a justice court in a negligence case because there was no indication that a bond required by [Tex. R. Civ. P. 571](#) had been filed; a cash deposit with a county treasurer was affirmative evidence that a condominium association did not file the required appellate bond, and it was not sufficient to comply with Rule 571. Without the proper filing of a proper appeal bond in the justice court within 10 days of the judgment, the approval of the bond by the justice court, and the subsequent transmittal of the documents required by [Tex. R. Civ. P. 574](#), the county court lacked jurisdiction. [Gundogan v. Woodgrove Condo. Ass'n, 2009 Tex. App. LEXIS 4499 \(Tex. App. Houston 1st Dist. June 18 2009\)](#).

24. County civil court erred when it dismissed an appeal from a justice of the peace court due to lack of jurisdiction because appellant established that she had filed an appeal bond under [Tex. R. Civ. P. 571](#) eight days after the justice of the peace court signed its judgment in favor of appellee. [Salmeron v. T-Mobile W. Corp., 2008 Tex. App. LEXIS 3028 \(Tex. App. Houston 1st Dist. Apr. 24 2008\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

25. County court at law was without jurisdiction to hear an inmate's appeal in a case under Tex. Civ. Prac. & Rem. Code Ann. ch. 14 because the inmate's affidavit of indigence was not filed within 5 days of the judgment, pursuant to [Tex. R. Civ. P. 572](#). Because the county court at law was without jurisdiction, so was an appellate court. [Miller v. Henderson, 2013 Tex. App. LEXIS 1610 \(Tex. App. Texarkana Feb. 21, 2013\)](#).

26. Appellate court had jurisdiction over the appeal, because the association filed its cost bond on appeal with the justice court, which was some evidence that the action was decided by, and the judgment was issued by, the justice court, as the cost bond on appeal was processed by the justice of the peace in his capacity as judge of the justice court. [Gundogan v. Woodgrove Condo. Ass'n, 2009 Tex. App. LEXIS 9569 \(Tex. App. Houston 1st Dist. Dec. 17 2009\)](#).

Civil Procedure: Appeals: Costs & Attorney Fees

27. By proving lack of service under [Tex. R. Civ. P. 536\(b\)\(2\)](#) and Tex. Civ. Prac. & Rem. Code Ann. § 17.021, an apartment complex owner conclusively established the third and only element for a bill of review that it was required to prove, and thus its bill of review action was not barred for failure to exhaust legal remedies, as suggested by appellants. [Tarrant Restoration v. TX Arlington Oaks Apts., Ltd., 225 S.W.3d 721, 2007 Tex. App. LEXIS 2867 \(Tex. App. Dallas 2007\)](#).

Civil Procedure: Appeals: Dismissals of Appeals: Involuntary Dismissals

28. County civil court erred when it dismissed an appeal from a justice of the peace court due to lack of jurisdiction because appellant established that she had filed an appeal bond under [Tex. R. Civ. P. 571](#) eight days after the justice of the peace court signed its judgment in favor of appellee. [Salmeron v. T-Mobile W. Corp., 2008 Tex. App. LEXIS 3028 \(Tex. App. Houston 1st Dist. Apr. 24 2008\)](#).

29. Dismissal of an appeal of a justice of the peace court judgment for lack of jurisdiction under [Tex. R. Civ. P. 571, 573](#) was error because appellant had invoked the mailbox rule, [Tex. R. Civ. P. 5](#), as to the filing of her appeal bond and had perfected her appeal by mailing her appeal bond on August 22, 2002 and by ensuring that the clerk received a faxed copy of the appeal bond on August 27, 2002. The justice of the peace had signed the judgment on August 14, 2002, and because the tenth day after the justice signed the judgment fell on August 24, 2002, a Saturday, appellant's appeal bond was due on Monday, August 26, 2002. [Williams v. Schneider, 148 S.W.3d 581, 2004 Tex. App. LEXIS 8821 \(Tex. App. Fort Worth 2004\)](#).

Civil Procedure: Appeals: Reviewability: General Overview

30. Court properly granted the customer's motion to dismiss, because the store had sufficient notice when the customer filed and served the motion to dismiss on the precise ground that the store had not perfected its appeal pursuant to [Tex. R. Civ. P. 571](#) since it had not posted a bond equal to twice the amount of the original judgment, and the store had five days from the date of the facsimile transmission to correct or amend the bond and failed to do so. [Ashley Furniture Indus. v. Law Office of David Pierce, 311 S.W.3d 595, 2010 Tex. App. LEXIS 752 \(Tex. App. El Paso 2010\)](#).

31. Debtor did not timely perfect his appeal to the county court from the decision of the justice court, because the debtor filed the appeal bond too late, when he filed his appeal bond after the justice court sustained the contest to his affidavit of inability to pay costs. [Walker v. Crowell, 299 S.W.3d 512, 2009 Tex. App. LEXIS 8386 \(Tex. App. Tyler 2009\)](#).

Civil Procedure: Appeals: Reviewability: Notice of Appeal

32. County court lacked jurisdiction over appellant's appeal and properly granted appellee's motion to dismiss; because appellant failed to meet all the requirements of [Tex. R. Civ. P. 571](#) and [573](#), his appeal was not perfected. [Litoff v. Meadows Serv. Corp., 352 S.W.3d 894, 2011 Tex. App. LEXIS 8978 \(Tex. App. Dallas 2011\)](#).

33. Appellee's bond was defective under [Tex. R. Civ. P. 571](#) because it listed no sureties as required. [Rowe v. Watkins, 340 S.W.3d 860, 2011 Tex. App. LEXIS 2067 \(Tex. App. El Paso 2011\)](#).

Tex. R. Civ. P. 571

34. Appellee was notified of her defective bond under [Tex. R. Civ. P. 571](#), and thus she had five days to correct the appeal bond, but she did not timely do so, and the county court lacked jurisdiction over the appeal. [Rowe v. Watkins, 340 S.W.3d 860, 2011 Tex. App. LEXIS 2067 \(Tex. App. El Paso 2011\)](#).

35. Because the appeal bond was defective on its face by failing to contain two or more sureties, appellant's notice of the defect was sufficient to trigger the five-day correction period under [Tex. R. Civ. P. 571](#), and because appellee did not timely correct her appeal bond, the county court lacked jurisdiction over the case. [Rowe v. Watkins, 340 S.W.3d 860, 2011 Tex. App. LEXIS 2067 \(Tex. App. El Paso 2011\)](#).

36. Where appellant maintained that because he perfected an appeal to the county court for trial de novo, appellee could not rely on a justice court judgment to establish her affirmative defense of res judicata, the court of appeals found that appellant mailed his appeal bond pursuant to [Tex. R. Civ. P. 571](#), within the parameters of the mailbox rule, [Tex. R. Civ. P. 5](#); therefore, he timely perfected his appeal pursuant to [Tex. R. Civ. P. 573](#); thus, appellee did not establish a prior final judgment by a court of competent jurisdiction, and so the trial court erred by granting her motion for summary judgment on the basis of res judicata. [Guevara v. Nolot, 2006 Tex. App. LEXIS 4387 \(Tex. App. Dallas May 23 2006\)](#).

Civil Procedure: Appeals: Reviewability: Preservation for Review

37. Appellate court did not address the claimant's issue, because the claimant cited no evidence showing that he filed an appeal bond or otherwise properly perfected an appeal from the justice court's judgment. [Merritt v. Davis, 331 S.W.3d 857, 2011 Tex. App. LEXIS 633 \(Tex. App. Dallas 2011\)](#).

Civil Procedure: Appeals: Reviewability: Time Limitations

38. Where the trial court entered judgment against a boat owner in suit brought by a homeowner whose property was damaged by the boat during a hurricane, the county court at law lacked jurisdiction over the boat owner's appeal because his appeal bond was filed more than ten days after the entry of judgment; the court rejected his claim that failure to timely file an appeal bond was an error of form or substance as contemplated by [Tex. R. Civ. P. 571](#) which provided appellants with five days to cure deficiencies after notice, as this would permit an indefinite extension of the time to perfect an appeal. [Reel v. Ruiz, 2013 Tex. App. LEXIS 10605 \(Tex. App. Houston 1st Dist. Aug. 22 2013\)](#).

39. County court at law was without jurisdiction to hear an inmate's appeal in a case under Tex. Civ. Prac. & Rem. Code Ann. ch. 14 because the inmate's affidavit of indigence was not filed within 5 days of the judgment, pursuant to [Tex. R. Civ. P. 572](#). Because the county court at law was without jurisdiction, so was an appellate court. [Miller v. Henderson, 2013 Tex. App. LEXIS 1610 \(Tex. App. Texarkana Feb. 21, 2013\)](#).

40. Justice court's ordering the club owner to pay \$3,000 in attorney's fees at trial constituted its rendition of judgment; however, the owner declined to file a motion for new trial and he did not file his appeal bond with the justice court in an attempt to perfect his appeal to the county court at law until on or about April 6, 2010, and as such, because the owner did not timely perfect his appeal, the county court at law lacked jurisdiction to consider it. [Westwood Shores Country Club v. Hendrickson, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).

Tex. R. Civ. P. 571

41. Appellate court could not compel the county court at law to conduct a proceeding over which it had no jurisdiction, because instead of filing an appeal bond or proof of inability to pay the costs of appeal the inmate filed a motion to set aside the judgment on September 1, 2008, the inmate's motion was overruled by operation of law on September 5, 2008, ten days after the small claims court rendered judgment, the latest date on which the inmate could have timely taken action to perfect his appeal to the county court at law was September 15, 2008, ten days after his motion was overruled by operation of law, and the inmate did not file his notice of appeal until September 24, 2008, so the county court at law was without jurisdiction to consider his untimely appeal. [*Bell v. County Court at Law No. 2*, 2009 Tex. App. LEXIS 8608 \(Tex. App. Fort Worth Oct. 15 2009\)](#).

42. Dismissal of an appeal of a justice of the peace court judgment for lack of jurisdiction under [*Tex. R. Civ. P. 571, 573*](#) was error because appellant had invoked the mailbox rule, [*Tex. R. Civ. P. 5*](#), as to the filing of her appeal bond and had perfected her appeal by mailing her appeal bond on August 22, 2002 and by ensuring that the clerk received a faxed copy of the appeal bond on August 27, 2002. The justice of the peace had signed the judgment on August 14, 2002, and because the tenth day after the justice signed the judgment fell on August 24, 2002, a Saturday, appellant's appeal bond was due on Monday, August 26, 2002. [*Williams v. Schneiber*, 148 S.W.3d 581, 2004 Tex. App. LEXIS 8821 \(Tex. App. Fort Worth 2004\)](#).

43. Where a party filed a motion for new trial without filing the appeal bond within 20 days of the date the judgment was rendered, the county court at law was without jurisdiction to hear the appeal, and the appeal was properly dismissed. [*Lawson v. Carranza*, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [*2004 Tex. App. LEXIS 6724*](#) (Tex. App. Houston 14th Dist. July 20, 2004).

44. Where [*Tex. R. Civ. P. 571*](#) provides an additional 10-day period in which to file an appeal bond, when a party files a motion for new trial, that party has a maximum of 20 days to file an appeal bond. [*Lawson v. Carranza*, 2004 Tex. App. LEXIS 5067 \(Tex. App. Houston 14th Dist. June 10 2004\)](#), opinion withdrawn by, substituted opinion at [*2004 Tex. App. LEXIS 6724*](#) (Tex. App. Houston 14th Dist. July 20, 2004).

Contracts Law: Contract Interpretation: Ambiguities & Contra Proferentem: General Overview

45. Appeal bond agreement that specified the maximum amount of the surety's liability was not ambiguous; although an appeal from the justice court to the county court resulted in an additional award of exemplary damages, neither the agreement nor [*Tex. R. Civ. P. 571*](#) limited the damages recoverable from the surety to actual damages and court costs. [*Kendziorski v. Saunders*, 191 S.W.3d 395, 2006 Tex. App. LEXIS 2596 \(Tex. App. Austin 2006\)](#).

Governments: Courts: Justice Courts

46. Justice court's ordering the club owner to pay \$3,000 in attorney's fees at trial constituted its rendition of judgment; however, the owner declined to file a motion for new trial and he did not file his appeal bond with the justice court in an attempt to perfect his appeal to the county court at law until on or about April 6, 2010, and as such, because the owner did not timely perfect his appeal, the county court at law lacked jurisdiction to consider it. [*Westwood Shores Country Club v. Hendrickson*, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).

47. In a case arising from a car accident, a county court at law should not have dismissed a case based on an alleged untimely filing of an appeal bond because the bond was made within 5 days of the filing of a plea to the jurisdiction, pursuant to [*Tex. R. Civ. P. 571*](#); a letter requesting a copy of the bond did not serve to provide notice of defects in procedure or a failure to file the bond. The letter merely requested a copy of the bond that had been filed

and stated that an attorney had not received notice of any such filing. [Watkins v. Debusk, 286 S.W.3d 58, 2009 Tex. App. LEXIS 2763 \(Tex. App. El Paso 2009\)](#).

Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: Forcible Entry & Detainer

48. County court lacked jurisdiction to decide a landlord's forcible detainer action under [Tex. R. Civ. P. 746](#) because two tenants failed to perfect an appeal of either the judgment of a justice court or that court's denial of their bill of review; they could not later file a new bill of review in the county court to challenge the justice court's judgment. The justice court did not acquire jurisdiction over the case pursuant to [Tex. R. Civ. P. 749](#) because the tenants did not file an appeal bond within 5 days of the judgment of the justice court. [Adams v. Ross, 2013 Tex. App. LEXIS 2974 \(Tex. App. Houston 1st Dist. Mar. 21 2013\)](#).

Real Property Law: Title Quality: Adverse Claim Actions: Unlawful Detainer

49. In a forcible entry and detainer case where the occupants failed to file a notice of appeal or motion for extension until several months after the expiration of the appellate deadline, the occupants made a bona fide attempt to perfect their appeal by depositing security to supersede the judgment within the appellate deadlines. The occupants' deposit of the amount of security ordered by the trial court to prevent enforcement of the judgment conferred appellate jurisdiction and required the appellate court to afford them a reasonable opportunity to file their notice of appeal to cure the formal defect. [Epstein v. Bank of Am., N.A., 2013 Tex. App. LEXIS 13848 \(Tex. App. Austin Nov. 8 2013\)](#).

Research References & Practice Aids

LexisNexis (R) Notes

TREATISES AND ANALYTICAL MATERIALS

1. An appellant from a justice court who files an appeal bond in compliance with rule 571 or files an affidavit of inability pursuant to rule 572 also complies with rule 143a of the rules if the bond is in an amount sufficient to cover the costs of appeal. Op. Tex. Att'y Gen. No. DM-0449 (1997).

Texas Rules

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[Tex. R. Civ. P. 572](#)

This document is current through March 25, 2019

Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V. RULES OF PRACTICE IN JUSTICE COURTS > SECTION 6. Appeal

Rule 572 Affidavit of Inability [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2457.

Change by amendment effective January 1, 1981: In the first part of the first sentence the words "is signed" are added after the words "new trial." The remainder of the rule is unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.001.

Case Notes

Civil Procedure: Judgments: Relief From Judgment: Bills of Review
Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review
Civil Procedure: Appeals: Reviewability: General Overview
Civil Procedure: Appeals: Reviewability: Preservation for Review
Civil Procedure: Appeals: Reviewability: Time Limitations
Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: Forcible Entry & Detainer

LexisNexis (R) Notes

Civil Procedure: Judgments: Relief From Judgment: Bills of Review

1. County court lacked jurisdiction to decide a landlord's forcible detainer action under [Tex. R. Civ. P. 746](#) because two tenants failed to perfect an appeal of either the judgment of a justice court or that court's denial of their bill of review; they could not later file a new bill of review in the county court to challenge the justice court's judgment. The justice court did not acquire jurisdiction over the case pursuant to [Tex. R. Civ. P. 749](#) because the tenants did not file an appeal bond within 5 days of the judgment of the justice court. [Adams v. Ross, 2013 Tex. App. LEXIS 2974 \(Tex. App. Houston 1st Dist. Mar. 21 2013\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

Tex. R. Civ. P. 572

2. County court at law was without jurisdiction to hear an inmate's appeal in a case under Tex. Civ. Prac. & Rem. Code Ann. ch. 14 because the inmate's affidavit of indigence was not filed within 5 days of the judgment, pursuant to [Tex. R. Civ. P. 572](#). Because the county court at law was without jurisdiction, so was an appellate court. [Miller v. Henderson, 2013 Tex. App. LEXIS 1610](#) (Tex. App. Texarkana Feb. 21, 2013).

Civil Procedure: Appeals: Reviewability: General Overview

3. Court properly granted the customer's motion to dismiss, because the store had sufficient notice when the customer filed and served the motion to dismiss on the precise ground that the store had not perfected its appeal pursuant to [Tex. R. Civ. P. 571](#) since it had not posted a bond equal to twice the amount of the original judgment, and the store had five days from the date of the facsimile transmission to correct or amend the bond and failed to do so. [Ashley Furniture Indus. v. Law Office of David Pierce, 311 S.W.3d 595, 2010 Tex. App. LEXIS 752 \(Tex. App. El Paso 2010\)](#).

4. Debtor did not timely perfect his appeal to the county court from the decision of the justice court, because the debtor filed the appeal bond too late, when he filed his appeal bond after the justice court sustained the contest to his affidavit of inability to pay costs. [Walker v. Crowell, 299 S.W.3d 512, 2009 Tex. App. LEXIS 8386 \(Tex. App. Tyler 2009\)](#).

Civil Procedure: Appeals: Reviewability: Preservation for Review

5. Appellate court did not address the claimant's issue, because the claimant cited no evidence showing that he filed an appeal bond or otherwise properly perfected an appeal from the justice court's judgment. [Merritt v. Davis, 331 S.W.3d 857, 2011 Tex. App. LEXIS 633 \(Tex. App. Dallas 2011\)](#).

Civil Procedure: Appeals: Reviewability: Time Limitations

6. County court at law was without jurisdiction to hear an inmate's appeal in a case under Tex. Civ. Prac. & Rem. Code Ann. ch. 14 because the inmate's affidavit of indigence was not filed within 5 days of the judgment, pursuant to [Tex. R. Civ. P. 572](#). Because the county court at law was without jurisdiction, so was an appellate court. [Miller v. Henderson, 2013 Tex. App. LEXIS 1610](#) (Tex. App. Texarkana Feb. 21, 2013).

7. Appellate court could not compel the county court at law to conduct a proceeding over which it had no jurisdiction, because instead of filing an appeal bond or proof of inability to pay the costs of appeal the inmate filed a motion to set aside the judgment on September 1, 2008, the inmate's motion was overruled by operation of law on September 5, 2008, ten days after the small claims court rendered judgment, the latest date on which the inmate could have timely taken action to perfect his appeal to the county court at law was September 15, 2008, ten days after his motion was overruled by operation of law, and the inmate did not file his notice of appeal until September 24, 2008, so the county court at law was without jurisdiction to consider his untimely appeal. [Bell v. County Court at Law No. 2, 2009 Tex. App. LEXIS 8608 \(Tex. App. Fort Worth Oct. 15 2009\)](#).

Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: Forcible Entry & Detainer

8. County court lacked jurisdiction to decide a landlord's forcible detainer action under [Tex. R. Civ. P. 746](#) because two tenants failed to perfect an appeal of either the judgment of a justice court or that court's denial of their bill of review; they could not later file a new bill of review in the county court to challenge the justice court's judgment. The justice court did not acquire jurisdiction over the case pursuant to [Tex. R. Civ. P. 749](#) because the tenants did not

file an appeal bond within 5 days of the judgment of the justice court. [Adams v. Ross, 2013 Tex. App. LEXIS 2974 \(Tex. App. Houston 1st Dist. Mar. 21 2013\)](#).

Research References & Practice Aids

LexisNexis (R) Notes

TREATISES AND ANALYTICAL MATERIALS

1. An appellant from a justice court who files an appeal bond in compliance with rule 571 or files an affidavit of inability pursuant to rule 572 also complies with rule 143a of the rules if the bond is in an amount sufficient to cover the costs of appeal. Op. Tex. Att'y Gen. No. DM-0449 (1997).

Texas Rules

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End of Document

[Tex. R. Civ. P. 573](#)

This document is current through March 25, 2019

Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V. RULES OF PRACTICE IN JUSTICE COURTS > SECTION 6. Appeal

Rule 573 Appeal Perfected [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2458, with minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.001.

Case Notes

Civil Procedure: Pleading & Practice: Service of Process: Methods: Mail

Civil Procedure: Judgments: Entry of Judgments: Stays Pending Appeals: Supersedeas Bonds

Civil Procedure: Judgments: Relief From Judgment: Bills of Review

Civil Procedure: Remedies: Bonds: General Overview

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

Civil Procedure: Appeals: Dismissals of Appeals: Involuntary Dismissals

Civil Procedure: Appeals: Reviewability: General Overview

Civil Procedure: Appeals: Reviewability: Notice of Appeal

Civil Procedure: Appeals: Reviewability: Time Limitations

Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: Forcible Entry & Detainer

Real Property Law: Title Quality: Adverse Claim Actions: Unlawful Detainer

LexisNexis (R) Notes

Civil Procedure: Pleading & Practice: Service of Process: Methods: Mail

1. Where appellant maintained that because he perfected an appeal to the county court for trial de novo, appellee could not rely on a justice court judgment to establish her affirmative defense of res judicata, the court of appeals found that appellant mailed his appeal bond pursuant to [Tex. R. Civ. P. 571](#), within the parameters of the mailbox rule, [Tex. R. Civ. P. 5](#); therefore, he timely perfected his appeal pursuant to [Tex. R. Civ. P. 573](#); thus, appellee did not establish a prior final judgment by a court of competent jurisdiction, and so the trial court erred by granting her motion for summary judgment on the basis of res judicata. [Guevara v. Nolot, 2006 Tex. App. LEXIS 4387 \(Tex. App. Dallas May 23 2006\)](#).

Civil Procedure: Judgments: Entry of Judgments: Stays Pending Appeals: Supersedeas Bonds

2. In a forcible entry and detainer case where the occupants failed to file a notice of appeal or motion for extension until several months after the expiration of the appellate deadline, the occupants made a bona fide attempt to perfect their appeal by depositing security to supersede the judgment within the appellate deadlines. The occupants' deposit of the amount of security ordered by the trial court to prevent enforcement of the judgment conferred appellate jurisdiction and required the appellate court to afford them a reasonable opportunity to file their notice of appeal to cure the formal defect. [*Epstein v. Bank of Am., N.A.*, 2013 Tex. App. LEXIS 13848 \(Tex. App. Austin Nov. 8 2013\)](#).

3. Where the trial court entered judgment against a boat owner in suit bought by a homeowner whose property was damaged by the boat during a hurricane, the county court at law lacked jurisdiction over the boat owner's appeal because his appeal bond was filed more than ten days after the entry of judgment; the court rejected his claim that failure to timely file an appeal bond was an error of form or substance as contemplated by [*Tex. R. Civ. P. 571*](#) which provided appellants with five days to cure deficiencies after notice, as this would permit an indefinite extension of the time to perfect an appeal. [*Reel v. Ruiz*, 2013 Tex. App. LEXIS 10605 \(Tex. App. Houston 1st Dist. Aug. 22 2013\)](#).

Civil Procedure: Judgments: Relief From Judgment: Bills of Review

4. County court lacked jurisdiction to decide a landlord's forcible detainer action under [*Tex. R. Civ. P. 746*](#) because two tenants failed to perfect an appeal of either the judgment of a justice court or that court's denial of their bill of review; they could not later file a new bill of review in the county court to challenge the justice court's judgment. The justice court did not acquire jurisdiction over the case pursuant to [*Tex. R. Civ. P. 749*](#) because the tenants did not file an appeal bond within 5 days of the judgment of the justice court. [*Adams v. Ross*, 2013 Tex. App. LEXIS 2974 \(Tex. App. Houston 1st Dist. Mar. 21 2013\)](#).

Civil Procedure: Remedies: Bonds: General Overview

5. County court lacked jurisdiction over appellant's appeal and properly granted appellee's motion to dismiss; because appellant failed to meet all the requirements of [*Tex. R. Civ. P. 571*](#) and [*573*](#), his appeal was not perfected. [*Litoff v. Meadows Serv. Corp.*, 352 S.W.3d 894, 2011 Tex. App. LEXIS 8978 \(Tex. App. Dallas 2011\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

6. County court at law was without jurisdiction to hear an inmate's appeal in a case under Tex. Civ. Prac. & Rem. Code Ann. ch. 14 because the inmate's affidavit of indigence was not filed within 5 days of the judgment, pursuant to [*Tex. R. Civ. P. 572*](#). Because the county court at law was without jurisdiction, so was an appellate court. [*Miller v. Henderson*, 2013 Tex. App. LEXIS 1610 \(Tex. App. Texarkana Feb. 21, 2013\)](#).

7. Appellate court had jurisdiction over the appeal, because the association filed its cost bond on appeal with the justice court, which was some evidence that the action was decided by, and the judgment was issued by, the justice court, as the cost bond on appeal was processed by the justice of the peace in his capacity as judge of the justice court. [*Gundogan v. Woodgrove Condo. Ass'n*, 2009 Tex. App. LEXIS 9569 \(Tex. App. Houston 1st Dist. Dec. 17 2009\)](#).

Civil Procedure: Appeals: Dismissals of Appeals: Involuntary Dismissals

8. Dismissal of an appeal of a justice of the peace court judgment for lack of jurisdiction under [Tex. R. Civ. P. 571, 573](#) was error because appellant had invoked the mailbox rule, [Tex. R. Civ. P. 5](#), as to the filing of her appeal bond and had perfected her appeal by mailing her appeal bond on August 22, 2002 and by ensuring that the clerk received a faxed copy of the appeal bond on August 27, 2002. The justice of the peace had signed the judgment on August 14, 2002, and because the tenth day after the justice signed the judgment fell on August 24, 2002, a Saturday, appellant's appeal bond was due on Monday, August 26, 2002. [Williams v. Schneiber, 148 S.W.3d 581, 2004 Tex. App. LEXIS 8821 \(Tex. App. Fort Worth 2004\).](#)

Civil Procedure: Appeals: Reviewability: General Overview

9. Court properly granted the customer's motion to dismiss, because the store had sufficient notice when the customer filed and served the motion to dismiss on the precise ground that the store had not perfected its appeal pursuant to [Tex. R. Civ. P. 571](#) since it had not posted a bond equal to twice the amount of the original judgment, and the store had five days from the date of the facsimile transmission to correct or amend the bond and failed to do so. [Ashley Furniture Indus. v. Law Office of David Pierce, 311 S.W.3d 595, 2010 Tex. App. LEXIS 752 \(Tex. App. El Paso 2010\).](#)

10. Debtor failed to timely perfect his appeal to the county court from the decision of the justice court because the debtor filed the appeal bond too late; he filed his appeal bond after the justice court sustained the contest to his affidavit of inability to pay costs. [Walker v. Crowell, 299 S.W.3d 512, 2009 Tex. App. LEXIS 8386 \(Tex. App. Tyler 2009\).](#)

Civil Procedure: Appeals: Reviewability: Notice of Appeal

11. County court lacked jurisdiction over appellant's appeal and properly granted appellee's motion to dismiss; because appellant failed to meet all the requirements of [Tex. R. Civ. P. 571](#) and [573](#), his appeal was not perfected. [Litoff v. Meadows Serv. Corp., 352 S.W.3d 894, 2011 Tex. App. LEXIS 8978 \(Tex. App. Dallas 2011\).](#)

12. Where appellant maintained that because he perfected an appeal to the county court for trial de novo, appellee could not rely on a justice court judgment to establish her affirmative defense of res judicata, the court of appeals found that appellant mailed his appeal bond pursuant to [Tex. R. Civ. P. 571](#), within the parameters of the mailbox rule, [Tex. R. Civ. P. 5](#); therefore, he timely perfected his appeal pursuant to [Tex. R. Civ. P. 573](#); thus, appellee did not establish a prior final judgment by a court of competent jurisdiction, and so the trial court erred by granting her motion for summary judgment on the basis of res judicata. [Guevara v. Nolot, 2006 Tex. App. LEXIS 4387 \(Tex. App. Dallas May 23 2006\).](#)

Civil Procedure: Appeals: Reviewability: Time Limitations

13. Where the trial court entered judgment against a boat owner in suit bought by a homeowner whose property was damaged by the boat during a hurricane, the county court at law lacked jurisdiction over the boat owner's appeal because his appeal bond was filed more than ten days after the entry of judgment; the court rejected his claim that failure to timely file an appeal bond was an error of form or substance as contemplated by [Tex. R. Civ. P. 571](#) which provided appellants with five days to cure deficiencies after notice, as this would permit an indefinite extension of the time to perfect an appeal. [Reel v. Ruiz, 2013 Tex. App. LEXIS 10605 \(Tex. App. Houston 1st Dist. Aug. 22 2013\).](#)

14. County court at law was without jurisdiction to hear an inmate's appeal in a case under Tex. Civ. Prac. & Rem. Code Ann. ch. 14 because the inmate's affidavit of indigence was not filed within 5 days of the judgment, pursuant to [Tex. R. Civ. P. 572](#). Because the county court at law was without jurisdiction, so was an appellate court. [Miller v. Henderson, 2013 Tex. App. LEXIS 1610](#) (Tex. App. Texarkana Feb. 21, 2013).

15. Dismissal of an appeal of a justice of the peace court judgment for lack of jurisdiction under [Tex. R. Civ. P. 571, 573](#) was error because appellant had invoked the mailbox rule, [Tex. R. Civ. P. 5](#), as to the filing of her appeal bond and had perfected her appeal by mailing her appeal bond on August 22, 2002 and by ensuring that the clerk received a faxed copy of the appeal bond on August 27, 2002. The justice of the peace had signed the judgment on August 14, 2002, and because the tenth day after the justice signed the judgment fell on August 24, 2002, a Saturday, appellant's appeal bond was due on Monday, August 26, 2002. [Williams v. Schreiber, 148 S.W.3d 581, 2004 Tex. App. LEXIS 8821 \(Tex. App. Fort Worth 2004\)](#).

Real Property Law: Landlord & Tenant: Landlord's Remedies & Rights: Eviction Actions: Forcible Entry & Detainer

16. County court lacked jurisdiction to decide a landlord's forcible detainer action under [Tex. R. Civ. P. 746](#) because two tenants failed to perfect an appeal of either the judgment of a justice court or that court's denial of their bill of review; they could not later file a new bill of review in the county court to challenge the justice court's judgment. The justice court did not acquire jurisdiction over the case pursuant to [Tex. R. Civ. P. 749](#) because the tenants did not file an appeal bond within 5 days of the judgment of the justice court. [Adams v. Ross, 2013 Tex. App. LEXIS 2974 \(Tex. App. Houston 1st Dist. Mar. 21 2013\)](#).

Real Property Law: Title Quality: Adverse Claim Actions: Unlawful Detainer

17. In a forcible entry and detainer case where the occupants failed to file a notice of appeal or motion for extension until several months after the expiration of the appellate deadline, the occupants made a bona fide attempt to perfect their appeal by depositing security to supersede the judgment within the appellate deadlines. The occupants' deposit of the amount of security ordered by the trial court to prevent enforcement of the judgment conferred appellate jurisdiction and required the appellate court to afford them a reasonable opportunity to file their notice of appeal to cure the formal defect. [Epstein v. Bank of Am., N.A., 2013 Tex. App. LEXIS 13848 \(Tex. App. Austin Nov. 8 2013\)](#).

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[Tex. R. Civ. P. 574](#)

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Rule 574 Transcript [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 2459.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.001.

Case Notes

Civil Procedure: Pretrial Judgments: Default: Default Judgments

Civil Procedure: Appeals: General Overview

Civil Procedure: Appeals: Appellate Jurisdiction: General Overview

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

LexisNexis (R) Notes

Civil Procedure: Pretrial Judgments: Default: Default Judgments

1. In a trial de novo, the trial court properly awarded a default judgment to plaintiff based on defendant's failure to appear where the trial court was not, as defendant argued, merely "upholding" the judgment of the justice court against her. [Raines v. Gomez, 2004 Tex. App. LEXIS 6924 \(Tex. App. Texarkana July 30 2004\)](#), opinion withdrawn by, substituted opinion at [143 S.W.3d 867, 2004 Tex. App. LEXIS 7605 \(Tex. App. Texarkana 2004\)](#).

Civil Procedure: Appeals: General Overview

2. County court lacked jurisdiction over an appeal from a justice court in a negligence case because there was no indication that a bond required by [Tex. R. Civ. P. 571](#) had been filed; a cash deposit with a county treasurer was affirmative evidence that a condominium association did not file the required appellate bond, and it was not sufficient to comply with Rule 571. Without the proper filing of a proper appeal bond in the justice court within 10 days of the judgment, the approval of the bond by the justice court, and the subsequent transmittal of the documents required by [Tex. R. Civ. P. 574](#), the county court lacked jurisdiction. [Gundogan v. Woodgrove Condo. Ass'n, 2009 Tex. App. LEXIS 4499 \(Tex. App. Houston 1st Dist. June 18 2009\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: General Overview

3. County court lacked jurisdiction over an appeal from a justice court in a negligence case because there was no indication that a bond required by [Tex. R. Civ. P. 571](#) had been filed; a cash deposit with a county treasurer was affirmative evidence that a condominium association did not file the required appellate bond, and it was not sufficient to comply with Rule 571. Without the proper filing of a proper appeal bond in the justice court within 10 days of the judgment, the approval of the bond by the justice court, and the subsequent transmittal of the documents required by [Tex. R. Civ. P. 574](#), the county court lacked jurisdiction. [Gundogan v. Woodgrove Condo. Ass'n, 2009 Tex. App. LEXIS 4499 \(Tex. App. Houston 1st Dist. June 18 2009\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

4. Appellate court had jurisdiction over the appeal, because the association filed its cost bond on appeal with the justice court, which was some evidence that the action was decided by, and the judgment was issued by, the justice court, as the cost bond on appeal was processed by the justice of the peace in his capacity as judge of the justice court. [Gundogan v. Woodgrove Condo. Ass'n, 2009 Tex. App. LEXIS 9569 \(Tex. App. Houston 1st Dist. Dec. 17 2009\)](#).

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[Tex. R. Civ. P. 574a](#)

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Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V. RULES OF PRACTICE IN JUSTICE COURTS > SECTION 6. Appeal

Rule 574a New Matter May Be Pleaded [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.001.

Case Notes

Civil Procedure: Pleading & Practice: Pleadings: Counterclaims: General Overview
Civil Procedure: Pleading & Practice: Pleadings: Counterclaims: Compulsory Counterclaims
Civil Procedure: Pleading & Practice: Pleadings: Rule Application & Interpretation
Civil Procedure: Appeals: Briefs
Civil Procedure: Appeals: Costs & Attorney Fees
Governments: Courts: Justice Courts
Transportation Law: Private Vehicles: Vehicle Registration: General Overview

LexisNexis (R) Notes

Civil Procedure: Pleading & Practice: Pleadings: Counterclaims: General Overview

1. County court, on appeal from a justice court, did not err in submitting appellee's fraud counterclaim to the jury because the conduct of appellant on which appellee based the counterclaim in the county court was the same conduct appellee alleged in the pleadings in the justice court. [Sadeghian v. Hudspeth, 2012 Tex. App. LEXIS 7323 \(Tex. App. Fort Worth Aug. 30 2012\)](#).

2. Finding in favor of the tenant in the landlord's action for eviction and past due rent was appropriate because, although the landlord complained about the trial court's judgment, arguing that it was reversible error for the court to have entered a judgment for the tenant in the absence of written pleadings, the landlord, through its corporate representative, had actual knowledge of the tenant's counterclaim but did not make a valid and timely objection to the trial of the counterclaim. Under those circumstances, the landlord was prohibited from complaining about the no-pleading issue on appeal. [New Wave Props. v. Wikoff, 2012 Tex. App. LEXIS 5866 \(Tex. App. Corpus Christi July 19 2012\)](#).

Civil Procedure: Pleading & Practice: Pleadings: Counterclaims: Compulsory Counterclaims

3. Purchaser conceded that his fraud claims were pleaded as counterclaims for the first time in the county court at law on appeal from the second suit, the forcible entry and detainer action brought in the justice of the peace court; however, [Tex. R. Civ. P. 574a](#) made it clear that in a county court, a defendant may not plead on an appeal from a forcible entry and detainer order a counterclaim, whether compulsory or permissive, that was not presented in the justice of the peace court below. Accordingly, the request for severance of the purchaser's compulsory counterclaims did not amount to a judicial admission that the purchaser's fraud claims were not compulsory counterclaims. [Pyles v. Young, 2009 Tex. App. LEXIS 5004 \(Tex. App. Dallas July 1 2009\)](#).

Civil Procedure: Pleading & Practice: Pleadings: Rule Application & Interpretation

4. In an appeal to a county law court from a municipal court decision under Tex. Code Crim. Proc. Ann. art. 47.01a to determine the right to possession to a stolen car between a dealer and an insurer, the insurer's request for attorney's fees under Tex. Civ. Prac. & Rem. Code Ann. § 37.009 was not a new ground of recovery precluded by [Tex. R. Civ. P. 574a](#); attorney's fees that are dependent on a cause of action that was originally pleaded in the court below may be asserted for the first time in a de novo appeal to the county court at law. [Allstate Ins. Co. v. Troy's Foreign Auto Parts, 2001 Tex. App. LEXIS 5029 \(Tex. App. Dallas July 26 2001\)](#).

Civil Procedure: Appeals: Briefs

5. In a case involving a repossession of a vehicle by a creditor, a debtor's claim that a trial court abused its discretion by acknowledging the creditor's special exceptions was inadequately briefed because he cited to no authority and made no argument as to why the trial court could not have considered the special exceptions to claims not raised in a justice court on the day of trial. To the extent that the debtor argued that the claims were not new grounds of recovery, he did not explain the basis of that argument and cited to nothing in the record to support such. [Flores v. James Wood Fin. Llc, 2013 Tex. App. LEXIS 7488 \(Tex. App. Fort Worth June 20 2013\)](#).

Civil Procedure: Appeals: Costs & Attorney Fees

6. In an appeal to a county law court from a municipal court decision under Tex. Code Crim. Proc. Ann. art. 47.01a to determine the right to possession to a stolen car between a dealer and an insurer, the insurer's request for attorney's fees under Tex. Civ. Prac. & Rem. Code Ann. § 37.009 was not a new ground of recovery precluded by [Tex. R. Civ. P. 574a](#); attorney's fees that are dependent on a cause of action that was originally pleaded in the court below may be asserted for the first time in a de novo appeal to the county court at law. [Allstate Ins. Co. v. Troy's Foreign Auto Parts, 2001 Tex. App. LEXIS 5029 \(Tex. App. Dallas July 26 2001\)](#).

Governments: Courts: Justice Courts

7. In a case involving a repossession of a vehicle by a creditor, a debtor's claim that a trial court abused its discretion by acknowledging the creditor's special exceptions was inadequately briefed because he cited to no authority and made no argument as to why the trial court could not have considered the special exceptions to claims not raised in a justice court on the day of trial. To the extent that the debtor argued that the claims were not new grounds of recovery, he did not explain the basis of that argument and cited to nothing in the record to support such. [Flores v. James Wood Fin. Llc, 2013 Tex. App. LEXIS 7488 \(Tex. App. Fort Worth June 20 2013\)](#).

Transportation Law: Private Vehicles: Vehicle Registration: General Overview

Tex. R. Civ. P. 574a

8. In an appeal to a county law court from a municipal court decision under Tex. Code Crim. Proc. Ann. art. 47.01a to determine the right to possession to a stolen car between a dealer and an insurer, the insurer's request for attorney's fees under Tex. Civ. Prac. & Rem. Code Ann. § 37.009 was not a new ground of recovery precluded by [Tex. R. Civ. P. 574a](#); attorney's fees that are dependent on a cause of action that was originally pleaded in the court below may be asserted for the first time in a de novo appeal to the county court at law. [Allstate Ins. Co. v. Troy's Foreign Auto Parts, 2001 Tex. App. LEXIS 5029 \(Tex. App. Dallas July 26 2001\)](#).

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Rule 574b Trial De Novo [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.001.

Case Notes

Civil Procedure: Jurisdiction: Subject Matter Jurisdiction: Amount in Controversy
Civil Procedure: Pleading & Practice: Defenses, Demurrers & Objections: Waiver & Preservation
Civil Procedure: Pretrial Judgments: Default: Default Judgments
Civil Procedure: Remedies: Bonds: Sureties: Liability
Civil Procedure: Appeals: Appellate Jurisdiction: General Overview
Civil Procedure: Appeals: Appellate Jurisdiction: Final Judgment Rule
Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review
Civil Procedure: Appeals: Reviewability: General Overview
Real Property Law: Title Quality: Adverse Claim Actions: General Overview

LexisNexis (R) Notes

Civil Procedure: Jurisdiction: Subject Matter Jurisdiction: Amount in Controversy

1. In a suit against a surety on an appeal bond, to the extent that the judgment exceeded the jurisdictional limit applicable on appeal to the county court under Tex. Gov't Code Ann. § 26.042(e) and [Tex. R. Civ. P. 574b](#), it was void. [Kendziorski v. Saunders, 191 S.W.3d 395, 2006 Tex. App. LEXIS 2596 \(Tex. App. Austin 2006\)](#).

Civil Procedure: Pleading & Practice: Defenses, Demurrers & Objections: Waiver & Preservation

2. Where a tenant appealed a default judgment of a justice court entered against him and answered his landlord's petition in the county court, the tenant's appeal and answer to the landlord's petition constituted an appearance, and he therefore waived any complaint regarding defects in service of process. [Whitmire v. Greenridge Place Apts., 2007 Tex. App. LEXIS 7893 \(Tex. App. Houston 1st Dist. Oct. 4 2007\)](#).

Civil Procedure: Pretrial Judgments: Default: Default Judgments

3. In a trial de novo, the trial court properly awarded a default judgment to plaintiff based on defendant's failure to appear where the trial court was not, as defendant argued, merely "upholding" the judgment of the justice court against her. [Raines v. Gomez, 2004 Tex. App. LEXIS 6924 \(Tex. App. Texarkana July 30 2004\)](#), opinion withdrawn by, substituted opinion at [143 S.W.3d 867, 2004 Tex. App. LEXIS 7605 \(Tex. App. Texarkana 2004\)](#).

Civil Procedure: Remedies: Bonds: Sureties: Liability

4. In a suit against a surety on an appeal bond, to the extent that the judgment exceeded the jurisdictional limit applicable on appeal to the county court under Tex. Gov't Code Ann. § 26.042(e) and [Tex. R. Civ. P. 574b](#), it was void. [Kendziorski v. Saunders, 191 S.W.3d 395, 2006 Tex. App. LEXIS 2596 \(Tex. App. Austin 2006\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: General Overview

5. Jurisdiction before the county court was proper, because jurisdiction over appeals from the justice court was controlled by the Texas Rules of Civil Procedure, which permitted appeals to the county court. [Fidelis v. Smith, 2009 Tex. App. LEXIS 7815 \(Tex. App. Houston 14th Dist. Sept. 24, 2009\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: Final Judgment Rule

6. Where a justice court judgment consisted of two documents, bearing the same cause number, one of which referred to the claim and the other to a counterclaim, both documents constituted one final judgment under [Tex. R. Civ. P. 301](#) that was annulled in its entirety by appeal, pursuant to [Tex. R. Civ. P. 574b](#); an appeal from the counterclaim only was subject to dismissal. [Rodriguez v. Seider, 2005 Tex. App. LEXIS 2374 \(Tex. App. Austin Mar. 31 2005\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

7. Where a tenant appealed a default judgment of a justice court entered against him and answered his landlord's petition in the county court, the tenant's appeal and answer to the landlord's petition constituted an appearance, and he therefore waived any complaint regarding defects in service of process. [Whitmire v. Greenridge Place Apts., 2007 Tex. App. LEXIS 7893 \(Tex. App. Houston 1st Dist. Oct. 4 2007\)](#).

8. In a suit against a surety on an appeal bond, to the extent that the judgment exceeded the jurisdictional limit applicable on appeal to the county court under Tex. Gov't Code Ann. § 26.042(e) and [Tex. R. Civ. P. 574b](#), it was void. [Kendziorski v. Saunders, 191 S.W.3d 395, 2006 Tex. App. LEXIS 2596 \(Tex. App. Austin 2006\)](#).

9. Where a justice court judgment consisted of two documents, bearing the same cause number, one of which referred to the claim and the other to a counterclaim, both documents constituted one final judgment under [Tex. R. Civ. P. 301](#) that was annulled in its entirety by appeal, pursuant to [Tex. R. Civ. P. 574b](#); an appeal from the counterclaim only was subject to dismissal. [Rodriguez v. Seider, 2005 Tex. App. LEXIS 2374 \(Tex. App. Austin Mar. 31 2005\)](#).

10. As there was no basis on which a Texas court of appeals could exercise jurisdiction over a restricted appeal from an order of a justice court that sat as a small claims court, defendant's appeal from entry of a default judgment was dismissed. [Automania, L.L.C. v. May, 2004 Tex. App. LEXIS 3532 \(Tex. App. Austin Apr. 22 2004\).](#)

Civil Procedure: Appeals: Reviewability: General Overview

11. Debtor did not timely perfect his appeal to the county court from the decision of the justice court, because the debtor filed the appeal bond too late, when he filed his appeal bond after the justice court sustained the contest to his affidavit of inability to pay costs. [Walker v. Crowell, 299 S.W.3d 512, 2009 Tex. App. LEXIS 8386 \(Tex. App. Tyler 2009\).](#)

Real Property Law: Title Quality: Adverse Claim Actions: General Overview

12. Court overruled an argument that a forcible entry and detainer defendant was denied due process by the justice of the peace. Whether the justice court afforded an opportunity to present oral argument and documentary evidence was moot, where defendant was accorded a trial de novo in the county court. [Stafford v. Stafford, 2004 Tex. App. LEXIS 8291 \(Tex. App. Amarillo Sept. 10 2004\).](#)

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[Tex. R. Civ. P. 575](#)

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
RULES OF PRACTICE IN JUSTICE COURTS > SECTION 7. Certiorari**

Rule 575 Order for Writ [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 942, with minor textual change.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

Case Notes

Civil Procedure: Judgments: Relief From Judgment: Bills of Review
Civil Procedure: Remedies: Writs: Common Law Writs: General Overview

LexisNexis (R) Notes

Civil Procedure: Judgments: Relief From Judgment: Bills of Review

1. County court erred by granting the vehicle owner's motion to dismiss the tower's bill of review because the tower presented undisputed evidence that the justice clerk failed to provide him with any notice of its orders within the time period in which the tower could have pursued a new trial motion or appeal as required by [Tex. R. Civ. P. 306a\(3\)](#); the tower presented affidavit testimony that he was precluded from offering any evidence at the justice court hearing on the amounts authorized by law for the towing and storage of the owner's vehicles because at the hearing, the justice court stated that it could not hear the matter, and the justice court subsequently entered findings of fact, conclusions of law, and orders compelling the tower to reimburse the owner a portion of the monies paid. The tower's failure to apply for a writ of certiorari in the county court did not constitute fault or negligence that precluded him from filing his bill of review in the justice court. [Cannon v. TJ Burdett & Sons Recycling, 2009 Tex. App. LEXIS 799 \(Tex. App. Houston 1st Dist. Feb. 5 2009\)](#).

Civil Procedure: Remedies: Writs: Common Law Writs: General Overview

2. County court erred by granting the vehicle owner's motion to dismiss the tower's bill of review because the tower presented undisputed evidence that the justice clerk failed to provide him with any notice of its orders within the time period in which the tower could have pursued a new trial motion or appeal as required by [Tex. R. Civ. P. 306a\(3\)](#); the tower presented affidavit testimony that he was precluded from offering any evidence at the justice

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court hearing on the amounts authorized by law for the towing and storage of the owner's vehicles because at the hearing, the justice court stated that it could not hear the matter, and the justice court subsequently entered findings of fact, conclusions of law, and orders compelling the tower to reimburse the owner a portion of the monies paid. The tower's failure to apply for a writ of certiorari in the county court did not constitute fault or negligence that precluded him from filing his bill of review in the justice court. [*Cannon v. T J Burdett & Sons Recycling, 2009 Tex. App. LEXIS 799 \(Tex. App. Houston 1st Dist. Feb. 5 2009\).*](#)

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Rule 576 Requisites of Writ [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Arts. 943 and 2460 (part).

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

Case Notes

LexisNexis (R) Notes

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

1. Trial court did not abuse its discretion by dismissing the application for writ of certiorari, because without a writ of certiorari and the justice court papers in the record, the face of the record did not support the applicant's argument on appeal that the justice court lacked jurisdiction over the animal cruelty case or treated the applicant unjustly; since the justice court's record did not appear in the appellate record, the appellate court could not imply that the case was removed from the justice court to the trial court. [Kessel-Revis v. State, 2014 Tex. App. LEXIS 6437 \(Tex. App. Beaumont June 12 2014\)](#).

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Rule 577 Affidavit of Sufficient Cause [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 944, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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[Tex. R. Civ. P. 578](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
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Rule 578 Application for Certiorari [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 945, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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Rule 579 Within What Time Granted [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

§/ SOURCE: Art. 946, unchanged.

Change by amendment effective January 1, 1981: Changed so time will run from the time the judgment is signed.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

Case Notes

LexisNexis (R) Notes

1. Trial court did not abuse its discretion by dismissing the application for writ of certiorari, because without a writ of certiorari and the justice court papers in the record, the face of the record did not support the applicant's argument on appeal that the justice court lacked jurisdiction over the animal cruelty case or treated the applicant unjustly; the ninety day period in which the writ of certiorari could issue expired. [Kessel-Revis v. State, 2014 Tex. App. LEXIS 6437 \(Tex. App. Beaumont June 12 2014\)](#).
2. Because the club owner did not timely file an appeal bond with the justice court, the county court at law did not have jurisdiction to consider his appeal, and because the owner did not file a bond with the clerk of the county court at law pursuant to [Tex. R. Civ. P. 580](#), the county court at law could not issue a writ of certiorari and was now time barred from doing so; accordingly, the county court at law never acquired jurisdiction to review the justice court's judgment under certiorari proceedings, and because the county court at law lacked jurisdiction to render judgment in the trial de novo, the cause in the county court at law had to be dismissed for want of jurisdiction. [Westwood Shores Country Club v. Hendrickson, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).
3. By proving lack of service under [Tex. R. Civ. P. 536\(b\)\(2\)](#) and Tex. Civ. Prac. & Rem. Code Ann. § 17.021, an apartment complex owner conclusively established the third and only element for a bill of review that it was required to prove, and thus its bill of review action was not barred for failure to exhaust legal remedies, as suggested by appellants. [Tarrant Restoration v. TX Arlington Oaks Apts., Ltd., 225 S.W.3d 721, 2007 Tex. App. LEXIS 2867 \(Tex. App. Dallas 2007\)](#).

Civil Procedure: Appeals: Reviewability: Time Limitations

4. Because the club owner did not timely file an appeal bond with the justice court, the county court at law did not have jurisdiction to consider his appeal, and because the owner did not file a bond with the clerk of the county court at law pursuant to [Tex. R. Civ. P. 580](#), the county court at law could not issue a writ of certiorari and was now time barred from doing so; accordingly, the county court at law never acquired jurisdiction to review the justice court's judgment under certiorari proceedings, and because the county court at law lacked jurisdiction to render judgment in the trial de novo, the cause in the county court at law had to be dismissed for want of jurisdiction. [Westwood Shores Country Club v. Hendrickson, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).

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[Tex. R. Civ. P. 580](#)

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**Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
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Rule 580 Bond with Sureties Required [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 947, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

Case Notes

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

Civil Procedure: Appeals: Reviewability: Time Limitations

LexisNexis (R) Notes

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

1. Because the club owner did not timely file an appeal bond with the justice court, the county court at law did not have jurisdiction to consider his appeal, and because the owner did not file a bond with the clerk of the county court at law pursuant to [Tex. R. Civ. P. 580](#), the county court at law could not issue a writ of certiorari and was now time barred from doing so; accordingly, the county court at law never acquired jurisdiction to review the justice court's judgment under certiorari proceedings, and because the county court at law lacked jurisdiction to render judgment in the trial de novo, the cause in the county court at law had to be dismissed for want of jurisdiction. [Westwood Shores Country Club v. Hendrickson, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).

Civil Procedure: Appeals: Reviewability: Time Limitations

2. Because the club owner did not timely file an appeal bond with the justice court, the county court at law did not have jurisdiction to consider his appeal, and because the owner did not file a bond with the clerk of the county court at law pursuant to [Tex. R. Civ. P. 580](#), the county court at law could not issue a writ of certiorari and was now time barred from doing so; accordingly, the county court at law never acquired jurisdiction to review the justice court's judgment under certiorari proceedings, and because the county court at law lacked jurisdiction to render judgment in the trial de novo, the cause in the county court at law had to be dismissed for want of jurisdiction. [Westwood Shores Country Club v. Hendrickson, 395 S.W.3d 298, 2013 Tex. App. LEXIS 603 \(Tex. App. Tyler 2013\)](#).

Tex. R. Civ. P. 580

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[Tex. R. Civ. P. 581](#)

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***Texas Court Rules > STATE RULES > TEXAS RULES OF CIVIL PROCEDURE > PART V.
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Rule 581 Bond, Affidavit and Order [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 948, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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Rule 582 Writ to Issue Instanter [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 949, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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Rule 583 Justice Shall Stay Proceedings [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 950, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

Case Notes

LexisNexis (R) Notes

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

1. Trial court did not abuse its discretion by dismissing the application for writ of certiorari, because without a writ of certiorari and the justice court papers in the record, the face of the record did not support the applicant's argument on appeal that the justice court lacked jurisdiction over the animal cruelty case or treated the applicant unjustly; since the justice court's record did not appear in the appellate record, the appellate court could not imply that the case was removed from the justice court to the trial court. [Kessel-Revis v. State, 2014 Tex. App. LEXIS 6437 \(Tex. App. Beaumont June 12 2014\)](#).

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[Tex. R. Civ. P. 584](#)

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Rule 584 Citation As in Other Cases [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 951, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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[Tex. R. Civ. P. 585](#)

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Rule 585 Cause Docketed [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 952, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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[Tex. R. Civ. P. 586](#)

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Rule 586 Motion to Dismiss [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 953.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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Rule 587 Amendment of Bond or Oath [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 954.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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Rule 588 Judgment of Dismissal [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 955, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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Rule 589 Pleading [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Arts. 956 and 957.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.
See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

Case Notes

LexisNexis (R) Notes

1. Trial court did not abuse its discretion by dismissing the application for writ of certiorari, because without a writ of certiorari and the justice court papers in the record, the face of the record did not support the applicant's argument on appeal that the justice court lacked jurisdiction over the animal cruelty case or treated the applicant unjustly; since the justice court's record did not appear in the appellate record, the appellate court could not imply that the case was removed from the justice court to the trial court. [*Kessel-Revis v. State, 2014 Tex. App. LEXIS 6437 \(Tex. App. Beaumont June 12 2014\)*](#).

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[Tex. R. Civ. P. 590](#)

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Rule 590 New Matter May Be Pleaded [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 958.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

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[Tex. R. Civ. P. 591](#)

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Rule 591 Trial De Novo [Repealed]

Repealed by Texas Supreme Court, Misc. Docket No. 13-9049, effective August 31, 2013.

Annotations

Notes

\$/ SOURCE: Art. 959, unchanged.

PUBLICATION REFERENCES. --See *Texas Litigation Guide*, Ch. 46, *Justice Court Proceedings*.

See also Civil Practice & Remedies Code §§ 15.081--15.100 and § 51.002.

Case Notes

Civil Procedure: Parties: Prisoners: Dismissals of Petitions

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

LexisNexis (R) Notes

Civil Procedure: Parties: Prisoners: Dismissals of Petitions

1. Inmate's application for a writ of certiorari was properly dismissed because he failed to comply with Tex. Civ. Prac. & Rem. Code Ann. § 14.004(a); because a county court at law was conducting a trial de novo, rather than affirming or reversing a judgment from a justice court, Tex. Civ. Prac. & Rem. Code Ann. § 14.002(a) applied. [Lackey v. Green, 2012 Tex. App. LEXIS 6496 \(Tex. App. Tyler Aug. 8 2012\)](#).

Civil Procedure: Appeals: Appellate Jurisdiction: State Court Review

2. Inmate's application for a writ of certiorari was properly dismissed because he failed to comply with Tex. Civ. Prac. & Rem. Code Ann. § 14.004(a); because a county court at law was conducting a trial de novo, rather than affirming or reversing a judgment from a justice court, Tex. Civ. Prac. & Rem. Code Ann. § 14.002(a) applied. [Lackey v. Green, 2012 Tex. App. LEXIS 6496 \(Tex. App. Tyler Aug. 8 2012\)](#).

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