

Instructions for Using these “Motion for Continuance” and “Request for Virtual Trial” Forms

What is a Motion for Continuance and Request for Virtual Trial?

A Motion for Continuance is a request to the court to move the date of the trial later because you are currently infected with COVID-19 or are under quarantine due to exposure to COVID-19.

A Request for Virtual Trial is a request to the court to allow you to appear before the judge via computer/smartphone (Zoom) or by dialing in via telephone. You may want to request a virtual trial if you or someone you are close with is a member of an at-risk population or if you are an essential worker.

NOTE: This document will become a public record. The fact that you have been diagnosed with Covid-19 will be a public record.

How to complete these forms:

- 1) Fill in the cause number. You will get this number from the eviction papers the constable gave you.
- 2) Fill in the plaintiff’s name. This is the landlord’s name.
- 3) Fill in the defendant’s name. This is your name.
- 4) Fill in the precinct and place numbers. You will get this information from the eviction papers the constable gave you.
- 5) Repeat Steps 1-4 for the same spaces at the top of the “Order” on page 5.
- 6) Fill in your signature, date, name, address, and your email address and fax number (if you have one) at the end of the “Motion” on page 4. If you are using a computer, you can type your signature as "/s/ Your Name," ex: /s/ Jane Smith.
- 7) Fill in the “Notice of Hearing” blanks on page 4. Call the court to get a date and time for the hearing on your Special Exceptions. If you can’t get an answer or the court doesn’t give you a day and time, put your eviction trial date and time from the eviction papers the constable gave you.
- 8) Fill in the “Certificate of Service” section on page 4. You are required to give a copy of this paperwork to the landlord or whoever filed the eviction for the landlord (you can see who filed the lawsuit for the landlord by looking at the “Petition” in the paperwork from the constable). The options for the way to give the paperwork to the landlord are listed in this section. This section tells the Judge how you gave the paperwork to the landlord.
- 9) You do not need to submit proof that you tested positive for COVID-19 with the motion, but be sure to have a copy of your positive test available if the court requests it.

Next Steps - Filing these forms:

There are several options for filing your forms:

- 1) Efile using <https://efile.txcourts.gov/ofswab>. There are instructions on the website.

- 2) Fax the forms to the court. Check the paperwork from the constable, call the court, or check the court's website at <http://www.jp.hctx.net/> (make sure you have the correct court).
- 3) Take them to the courthouse – either before your court date or to your trial. Be sure to make a copy for yourself. If you have chosen to deliver the forms to the landlord in open court, you need to have another copy.
- 4) Email them to the court. Find your court's email address at <http://www.jp.hctx.net/> (make sure you have the correct court).

Call the court to make sure they received the documents.

After the trial:

- 1) If you lose, [click here](#) for information about appealing. The deadline to appeal is five (5) days after the trial. If you wait too long, you cannot appeal.
- 2) If you win and you still owe rent, talk to your landlord about a payment plan or moving out. Call 211 to find agencies offering rental assistance.

**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**

CAUSE NO. _____

Plaintiff,

V.

Defendant.

§ **IN THE JUSTICE COURT**

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§ **HARRIS COUNTY**

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§ **PRECINCT ____, PLACE ____**

**DEFENDANT’S MOTION FOR CONTINUANCE
AND REQUEST FOR VIRTUAL TRIAL**

Defendant in the above-entitled and numbered cause, file this Motion for Continuance and Request for Virtual Trial. A continuance of the currently scheduled trial date is requested because defendant recently tested positive for COVID-19, and defendant also requests a virtual trial defendant.

BACKGROUND

1. Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the imminent threat of the COVID-19 pandemic.
2. On _____, 2020, defendant tested positive for Covid-19 and must remain under quarantine for at least 14 days. The trial is currently scheduled to take place on _____, 2020.

ARGUMENTS AND AUTHORITIES

3. In view of the extraordinary circumstances of the current COVID-19 pandemic, and pursuant to Paragraph 2(b) of the Texas Supreme Court emergency order dated March 13, 2020 (hereinafter “*First Emergency Order*”) (renewed as of April 27, 2020 in the Twelfth Emery Order Regarding the COVID-19 State of Disaster (hereinafter “*Twelfth Emergency Order*”)), the

State invokes its right to appear remotely in all proceedings in the above styled and numbered cause for so long as the aforementioned emergency order remains in effect.

4. In pertinent part, this order provides as follows:

Subject only to constitutional limitations, all courts in Texas may in any case, civil or criminal—and *must* to avoid risk to court staff, parties, attorneys, jurors, and the public— . . . [a]llow or require anyone involved in any hearing, deposition, or other proceeding of any kind—including but not limited to a party, attorney, witness, or court reporter, but not including a juror—to participate remotely, such as by teleconferencing, videoconferencing, or other means

First Emergency Order, at 1 (emphasis added).

5. The order also explicitly calls upon the courts of this State to “[t]ake any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.” *Id.* at 2.

6. Paragraph 4 of the *Twelfth Emergency Order* states “Courts must not conduct in-person proceedings contrary to guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions. Courts should use all reasonable efforts to conduct proceedings remotely.” *Twelfth Emergency Order* at 2 (emphasis added).

7. The Office of Court Administration has issued guidance which includes

The following guidance is provided for all courts:

- In-person proceedings of any size should be delayed until at least June 1.
- Essential proceedings should occur in-person only if holding the proceeding remotely is not possible or feasible.
- If essential proceedings must be held in-person, the court should ensure that:
- *No more than 10 persons are gathered in the courtroom or in areas around the courtroom (see EXCEPTION below);*
- Participants wear face coverings where possible; and
- Participants in the courtroom are separated consistent with social distancing and other precautions.
- EXCEPTION: Essential proceedings may occur in-person in excess of the 10-person maximum if the law requires more than 10 persons for the proceedings, such as grand jury

deliberations. Participants should be separated consistent with social distancing and should wear face coverings where possible. (Note: Emergency Order 12 permits, but does not require, grand jurors to meet remotely).

- No non-essential proceedings should be held in-person.
- *With the introduction of the remote proceedings capability through Zoom, most non-essential proceedings, except for jury trials, can be conducted remotely, and there are no limitations on those remote proceedings so long as reasonable notice and access is provided to the participants and the public.*

Office of Court Administration, “Court Operation Guidance, Issued 4/27/2020,”

<https://www.txcourts.gov/media/coronavirus-covid-19-court-operation-guidance/> (last visited April 29, 2020) (emphasis added).

8. Defendant is currently under quarantine until. Defendant cannot appear at for the currently scheduled trial, nor can defendant predict whether the illness will allow the defendant to be available remotely on the currently scheduled trial date.

9. Under present circumstances, the physical appearance of tenants in a Harris County courtroom has now become unjustifiably dangerous to the health of the defendant, as well as to the health of other individuals in the courtroom and, through potential spread of the COVID-19 disease, the broader public. It is nearly impossible to maintain recommended social distancing protocols in the close quarters and dense population of a Harris County Justice Court courtroom.

10. Because the requisite risk of COVID-19 infection has now been established in Harris County, the Court must allow the defendant to appear remotely in the above styled and numbered cause for so long as the aforementioned emergency orders remain in effect.

PRAYER

11. For these reasons, defendant asks the Court to continue the trial for a date after _____, 2020, and to allow the defendant to appear remotely by

teleconferencing, videoconferencing, or other means, and for all such other and further relief as to which defendant is justly entitled.

Respectfully submitted,

Signature

Date

Printed Name

Phone

Mailing Address

City, State Zip

Email address (if available)

Fax (if available)

NOTICE OF HEARING ON DEFENDANT'S MOTION

The attached Defendant's Motion has been filed and will be submitted to the Court for consideration at a hearing on _____, 2020, at _____ A.M./P.M.

CERTIFICATE OF SERVICE

I certify that I delivered a copy of this document to each party in this case, or if a party is represented by a lawyer to the party's lawyer by: *(Check one or more)*

- Hand delivery in open court
- Hand delivery to _____
- Email to _____
- Regular mail to _____
- Certified mail, return receipt requested to _____
- Commercial delivery service (ex: FedEx) to _____
- Fax to _____
- Electronic service through the electronic filing manager.

Signature

Date

CAUSE NO. _____

Plaintiff,

V.

Defendant.

§ IN THE JUSTICE COURT

§

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§ HARRIS COUNTY

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§ PRECINCT ____, PLACE ____

**ORDER ON DEFENDANT’S MOTION FOR CONTINUANCE
AND REQUEST FOR VIRTUAL TRIAL**

After considering the defendant’s Motion for Continuance and Request for Virtual Trial, the response, the pleadings, and arguments of the parties, the Court GRANTS the motion.

The trial setting will be continued until _____, 2020
at _____ AM/PM and the defendant will be allowed to attend the trial by:

SIGNED on _____, 2020.

PRESIDING JUDGE