

Instructions for Using these “Motion for Mediation, Notice of Submission, and Order” Forms

What is a Motion for Mediation, Notice of Submission, and Order?

A Motion for Mediation is a request to the court to refer the case to alternative dispute resolution, such as a mediator.

This Motion says that the eviction proceedings should not be held in front of a judge/in a courtroom because mediation could be faster and safer in light of the backlog of cases and the COVID-19 pandemic.

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 4.
- 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 3. 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 3. 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 3. 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.

Next Step - 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.

CAUSE NO. _____

Plaintiff,

V.

Defendant.

§ IN THE JUSTICE COURT

§

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§ HARRIS COUNTY

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§ PRECINCT ____, PLACE ____

DEFENDANT’S MOTION TO REFER CASE TO MEDIATION

NOW COMES Defendant, in the above-entitled and numbered cause, and asks the Court to refer this case to alternative dispute resolution (ADR) under the authority of Texas Civil Practice & Remedies Code section 154.021 and the Texas Rule of Civil Procedure 503.5.

INTRODUCTION

1. Plaintiff has sued Defendant for an eviction while the state is in the midst of a disaster.

BACKGROUND

2. 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.

3. With Emergency Orders, the Texas Supreme Court halted almost all eviction trials beginning in March 2020. There is currently a backlog of eviction cases that were postponed due to the Texas eviction trial moratorium.

4. 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).

5. Harris County Justice Courts may need to explore various options in order to alleviate the backlog of eviction cases and follow Office of Court Administration guidance regarding safety measures. This may include referring cases to mediation. If the parties are able to peacefully resolve the dispute, then the court will have one less trial on its docket.

ARGUMENTS AND AUTHORITIES

6. Defendant asks the Court to refer this case to mediation under Texas Civil Practice & Remedies Code section 154.021.

7. “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 [but the] court must not order mediation or any other alternative dispute resolution process in an eviction case if it would delay trial” Tex. R. Civ. P. 503.5.

8. This case is a pro bono case through Houston Volunteer Lawyers (HVL).

9. The Harris County Dispute Resolution Center (DRC) is working with HVL and others to expedite the scheduling of mediations.

10. With the DRC’s ability to expedite case placement with mediators, this order is filed timely so that trial will not be delayed.

11. The DRC’s services are free to residents of Harris County.

12. This case is appropriate for referral to ADR because the policy of the state is to encourage ADR and ordering mediation will not delay trial. It may also help to alleviate heavy trial dockets at a time when safety concerns and crowding concerns are paramount.

CONCLUSION

13. The Court should order this case to mediation so that the parties may attempt to

resolve the dispute peaceably themselves and doing so will not delay trial.

PRAYER

14. For these reasons, defendant asks the Court to refer this case to mediation at the Harris County Dispute Resolution Center.

Respectfully submitted,

Signature

Date

Printed Name

Phone

Mailing Address

City, State Zip

Email address (if available)

Fax (if available)

NOTICE OF SUBMISSION ON DEFENDANT’S MOTION TO REFER CASE TO MEDIATION

The attached Motion has been filed and will be submitted to the Court for consideration without 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 though the electronic filing manager.

Signature

Date

CAUSE NO. _____

Plaintiff,

V.

Defendant.

§ IN THE JUSTICE COURT

§

§

§ HARRIS COUNTY

§

§

§ PRECINCT ____, PLACE ____

ORDER ON DEFENDANT’S MOTION TO REFER CASE TO MEDIATION

After considering the Defendant’s Motion to Refer Case to Mediation, the response, the pleadings, and arguments, the Court

GRANTS the motion.

This case is referred for mediation under Texas Civil Practice & Remedies Code section 154.021 and Texas Rule of Civil Procedure 503.5.

The Harris County Dispute Resolution Center (DRC) is appointed to assist the parties in the resolution of the case.

The parties will contact the DRC within ____ days to schedule the mediation.

The mediation will be completed before the trial date.

The parties will attend mediation and remain present until its completion.

All statements made during mediation sessions and all materials prepared for the mediation are confidential. No party will attempt to compel the mediator’s testimony, to compel the mediator to produce any documents provided by any party, or to compel any party to testify about statements made in the mediation sessions, unless the oral communication written materials are admissible or discoverable independent of the ADR procedures.

The mediator will not disclose confidential information provided during the mediation, testify on behalf of any party, or submit any report to the Court in connection with this suit other than to state whether the parties have reached a settlement.

The mediation will be confidential, privileged from discovery, and otherwise conducted in accordance with Texas Civil Practice & Remedies Code section 154.073.

The Harris County DRC will charge fees in accordance with its regular policies, which may be no fee at all.

SIGNED on _____, 2020.

PRESIDING JUDGE