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*Executive
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Linda Bryant

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Charles "Chip" Babcock
Supreme Court Advisory Committee
Jackson Walker L.L.P.
1401 McKinney, Suite 1900
Houston, Texas 77010

The Honorable Nathan Hecht
and David Medina
Supreme Court of Texas
Post Office Box 12248
Austin, Texas 78711-2248

Dear Supreme Court Advisory Committee Members
and Justices Hecht and Medina:

On behalf of the Texas Housing Association, I am writing this letter in response to the draft justice court rules proposed by the Task Force for Rules in Small Claims Cases and Justice Court Proceedings. Texas Housing Association is a statewide non-profit organization dedicated to meeting the education and information needs of the 400+ public housing authorities/agencies in Texas. We have been serving Texas authorities since 1951. This letter is also being signed by representatives of the legal departments of the largest housing authorities in Texas – the Dallas Housing Authority, the Houston Housing Authority, the San Antonio Housing Authority, and the El Paso Housing Authority.

As you know, Texas housing authorities provide affordable housing to families of low and moderate incomes. Although public housing authorities have been charged with the task of providing safe, affordable housing to Texas's low-income population and those public housing units are federally subsidized, Texas housing authorities have not been immune from funding cuts over the last few years. We believe that the proposed legislation would further erode the ability of Texas housing authorities to provide safe and affordable housing because it would become more time consuming and costly to evict individuals who refuse to comply with their obligations under our program guidelines.

The vast majority of the families we serve comply with their leases and fulfill the responsibilities required to reside in their units. Unfortunately, when one of our tenants refuses to abide by those obligations and responsibilities, it can take *several months* for a Texas housing authority to evict that tenant. If the tenant fails to pay their current rent, the housing authority will file a lawsuit for eviction in the Justice of the Peace Court. After service, a court may set a trial date within two weeks. After a judgment is found in favor of the housing authority, the tenant oftentimes files an appeal to County Court. The trial on appeal is *de novo*. Cases are appealed oftentimes simply to delay the ultimate eviction and to avoid paying rent. It may take 2-3 weeks for the case to be set for trial at the County Court level. During this extensive process, the housing authority will not collect any rent from the tenant

and will continue to lose the much-needed revenue to provide services to our families.

As such, it appears as a result of the proposed changes (specifically, Proposed Rules 739, 741, 743, 745, 501, 507 and 507.1), it will take longer and be more costly to evict a tenant who fails to comply with their lease and make the eviction proceedings less efficient. The increased costs would adversely affect housing authorities' diminishing resources needed to further the efforts of providing safe, affordable housing in Texas.

Proposed Rule 739 would require that each defendant/occupant in an eviction case be served individually, which may lead to continuous delays throughout the eviction process. Additionally, the cost of serving each individual occupant would significantly increase the amount of time and money actually spent to evict. It is our belief that Proposed Rule 739 would only further exhaust the limited resources available to Texas housing authorities by providing housing for an individual who has failed to live up to their obligations as a resident. The amount of money spent to house those who refuse to abide by the obligations and responsibilities necessary to provide public housing, even after a suit has been filed, could be better spent on providing housing to other deserving families.

Proposed Rule 741, which would provide a tenant 14 days "from the date of filing a petition," to appear before the judge, should be contrasted with the current Rule 741, which grants the tenant up to 10 days "from the date of service" of the citation to appear before a judge. The proposed change would be detrimental to tenants who have been served near the end of the 14 day window, giving the individual little or no time to prepare for their appearance. This in turn, will place administrative burdens on justice courts to amend citations for those who have not been served within the proposed timeframe. We recommend that Proposed Rule 741 not be considered, and that it be replaced with a more efficient rule that reduces expenses while upholding the current service date citation requirement.

Proposed Rule 743 would provide that the constable, sheriff or other person ordered by the court to serve the citation must return the citation "no later than 3 days before the day assigned for trial." Again, this rule prolongs the eviction process by extending time from 1 day to 3 days, creating the potential for delays and postponement of the eviction trial date. Having the date changed will no longer give those serving the citation maximum amount of time to serve the defendant and return the documentation so that the trial will take place on the original set date. We request that the time to return the citation remain on or before the scheduled trial date.

Proposed Rule 745 would provide that the time period for a party to request a jury to be "on or before five days from the date the defendant is served with citation." The new proposed rule gives a party the potential to make request for a jury trial at the last minute. If granted, this will inevitably increase the number of delayed eviction trials and increase associated costs for Texas housing authorities. We suggest that the current Rule 744 be maintained.

Proposed Rule 501 would make the Texas Rules of Civil Procedure no longer apply to Justice of the Peace cases. It is our belief that not to have these rules would cause vague and inconsistent application of the procedures in a judicial forum.


The requirements of Proposed Rules 507 and 507.1 would require that any requests for pretrial discovery be presented to the court by written motion before being served on the other party. Bringing the court into the pretrial discovery process will greatly reduce the efficiency of exchanging information between both parties. As a result, simple eviction matters will become lengthier and much more expensive than needed. Additionally, based on our experience, we cannot see the need for discovery in eviction matters.

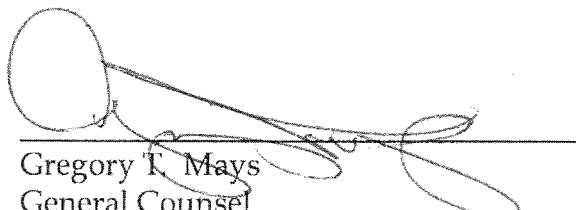
The current eviction procedures, while not perfect, are more efficient than those that are being proposed. The proposed changes presented to the court boldly transcend the original legislative intent to govern eviction cases with caution, care, and consistency. Although these proposed rule changes reflect a great amount of consideration for tenants who may be in violation of their leases and the terms and conditions of the tenancy, the proposed changes fail to take into account the scarce resources Texas housing authorities have to enforce their leases while also providing housing for the thousands of Texas residents who fulfill all of their obligations as tenants, despite whatever hardships they may face.

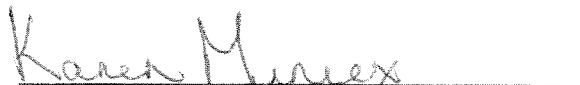
We strongly urge the Supreme Court Advisory Committee to recommend not making the above noted proposed changes which would dramatically alter the way eviction cases are handled by housing authorities in Texas. We will be available to work with the Supreme Court Advisory Committee and the Court's rules attorney(s) to help ensure the eviction process is fair for all parties.


Thank you for consideration of our concerns.

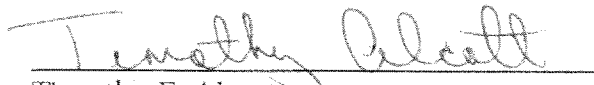
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