

**NO. JP-03-25-RR00000029**

**KATHRYN COPELAND**

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**IN THE JUSTICE COURT**

**V.**

**PRECINCT 3**

**WMCi X, LLC (AKA  
WEINSTEIN PROPERTIES DBA  
THE BOWERY AT SOUTHSIDE)**

**TARRANT COUNTY, TEXAS**

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**Plaintiff's Motion to Strike Defendants' Counterclaims**

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**TO THE HONORABLE JUDGE OF SAID COURT:**

Plaintiff Kathryn Copeland files this Motion to Strike Defendants' Counterclaims and respectfully shows the Court as follows:

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**I. BACKGROUND**

Plaintiff filed this Repair & Remedy action under Texas Property Code §§ 92.052, 92.056, and 92.0563 seeking statutory relief after Defendants failed to repair mold and water-intrusion conditions that materially affected health and safety at Unit 2145. Plaintiff filed her First Amended Petition on November 20, 2025.

On December 5, 2025, Defendants filed an Answer containing **counterclaims under Texas Property Code § 92.004**, alleging harassment and seeking one month's rent, \$100 in statutory penalties, and attorney's fees.

These counterclaims are **procedurally improper as a matter of law** and should be stricken.

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## II. ARGUMENT

### A. Counterclaims Are Not Permitted in a Repair & Remedy Proceeding

The Texas Property Code expressly **limits the scope and procedural posture** of Repair & Remedy cases. Section 92.0563 provides:

- expedited timelines,
- narrow issues, and
- a restricted list of remedies.

Allowing unrelated landlord counterclaims would defeat the Legislature’s deliberate design to make R&R cases fast, simple, and tenant-protective.

Section 92.335 reinforces this restriction by prohibiting additional claims in similarly streamlined statutory landlord-tenant suits:

“Other judicial actions under this chapter may not be joined... or asserted as a defense or cross-claim.”

While this case is not an eviction suit, **the same rule applies**: streamlined statutory proceedings are not vehicles for expanded litigation or satellite disputes.

Defendants’ counterclaim improperly attempts to convert a narrow R&R action into a broad civil lawsuit.

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### B. Defendants’ § 92.004 Counterclaim Must Be Filed Separately

Texas Property Code § 92.004 authorizes landlords to sue for bad-faith filing **as an independent cause of action**, not as a counterclaim inside another statutory proceeding.

The two claims are legally incompatible:

<b>Plaintiff's Claim</b>	<b>Defendant's Counterclaim</b>
<b>Repair &amp; Remedy (§92.0563)</b>	<b>Bad-Faith Filing (§92.004)</b>
Requires proof of: (1) condition affecting health/safety, (2) notice, (3) failure to repair	Requires proof of tenant's bad faith in filing
Remedies: repair order, rent abatement, actual damages, statutory penalty	Remedies: one month's rent + \$100, attorney's fees
Streamlined, expedited, limited	Full litigation required

A Repair & Remedy hearing cannot be used to adjudicate a landlord's claim that the tenant acted in bad faith — especially when the same landlord's own evidence confirms severe habitability conditions.

If Defendants believe they have a claim under § 92.004, their remedy is to file a **separate suit**, not to derail this proceeding.

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### **C. The Counterclaims Are a Procedurally Improper Attempt to Introduce Issues Outside JP Court Jurisdiction**

Justice Courts have **jurisdiction only over the matters enumerated in §92.0563**, namely:

- whether hazardous conditions existed;
- whether the landlord was properly notified;
- whether repairs were timely and diligent;
- whether Plaintiff is entitled to statutory remedies.

Defendants' counterclaims introduce issues outside this scope:

- allegations regarding Plaintiff's motives;
- rental amounts not part of R&R relief;
- requests for attorney's fees not authorized in a counterclaim posture;
- narrative disputes about events connected to other ongoing litigation.

These issues exceed the jurisdictional limits of this Court and would improperly expand the hearing beyond the Legislature's intended scope.

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### III. CONCLUSION

Defendants' counterclaims are **procedurally barred, jurisdictionally improper**, and contrary to the statutory purpose of Chapter 92. They should be stricken in their entirety so that this Court may proceed to the limited and expedited issues properly before it.

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### IV. PRAYER

WHEREFORE, **Plaintiff** respectfully requests that this Court:

1. **STRIKE Defendants' Counterclaims** filed December 5, 2025;
  2. Proceed to hearing on Plaintiff's Repair & Remedy claims; and
  3. Grant Plaintiff such other and further relief to which she may be justly entitled.
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**Respectfully submitted,**  
**/s/ John Allen Douglas**  
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**COUNSEL FOR PLAINTIFF,**  
**KATHRYN COPELAND**

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served on counsel of record this December 7, 2025 in accordance with the Texas Rules of Civil Procedure.

#### **Via Electronic Service**

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**/s/ John Allen Douglas**  
**JOHN ALLEN DOUGLAS**

### Automated Certificate of eService

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Filing Code Description: Motion Filed

Filing Description: Motion for ADA Accommodations for Hearing

Status as of 12/8/2025 8:04 AM CST

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