

Introduction To Citations

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Tarrant County Precinct 1

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What We Will Discuss

- **What is a citation?**
- **Issuance of the citation**
- **Requirements of the citation**
- **Dates & times for service**
- **Expiration for service**
- **Who may serve the citation**
- **Methods of service**
- **Who the citation is delivered to**
- **Duties and requirements of the officer**
- **Return duties and requirements of the officer**

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Resources

- www.txcourts.gov
- Texas Rules of Civil Procedure (TRCP)

- www.statutes.capitol.texas.gov
- All statutes other than the Rules of Civil Procedure

- www.tjctc.org
- Texas Civil Process Field Guide
- Deskbooks – including Practical Guide to Writs of Execution
- Legal Question Board
- Forms

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Rules of Civil Procedure

All rules except Rules 500 – 510

- Apply to cases in county and district court.

Rules 500 -510

- Apply specifically to cases in justice court.
- The other rules of civil procedure do not apply ***unless*** the judge determines that a particular rule should apply in order to ensure fairness to all parties or the law says another rule applies.

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What is a Citation?

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What is a Citation?

It is the official process by which a defendant is notified he or she is being sued.

- Issued after the plaintiff (person suing) files a petition and pays a fee.
- Accompanied by a copy of the petition when it's served.

The citation provides notice to the defendant(s) of the opportunity to:

- Answer,
- Appear, and
- Defend the suit.

TRCP Rules 99 & 501

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Who issues the Citation?

Citations can be issued by the clerk(s) of the:

1. District court
2. County court
3. Justice court
4. All of the above

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What if There are Multiple Defendants?

A citation must be issued for **each** defendant.

- The officer must serve a citation and petition on each defendant.
- A service fee will be charged for every citation that has to be served.

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Requirements of the Citation

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1. Main Requirements of the Citation

- Styled “The State of Texas.”
- Identifies the person to whom the citation is directed = Defendant.
- Includes the name and county of the court where the case is filed.
- Includes the cause number.
- Identifies all parties in the case.
- Includes the date of issuance of the citation.
- Includes the date the petition was filed.
- Includes the name and address of the plaintiff’s attorney, or the address of the plaintiff.

TRCP Rules 99 & 501.1(b)

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2. Main Requirements of the Citation

- Includes how long the defendant has to file an answer.
- Includes the address of the clerk.
- Informs the defendant that a default judgment may be entered if the defendant fails to answer.
- Includes the required statutory notice telling the defendant he/she has been sued and stating the deadline to file an answer.
- Identifies which court the citation is returnable to.
- Is signed by the clerk of the court or the judge.
- Contains the court's seal.

TRCP Rules 99 & 501.1(b)

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Defendant's Time to Answer

District or County Court:

On or before Monday at 10:00 AM,
after the expiration of 20 days from
the date of service.

Justice Court:

By the end of the 14th day after the date of
service.

If that day is a Saturday, Sunday, or legal
holiday, then by the end of the next business
day.

TRCP Rule 501.1 (c)

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Statutory Notice Wording

District or County Court:

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TRCP Rules 99(c)

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Statutory Notice Wording

Justice Court:

"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."

TRCP Rules 99(c) & 501.1(c)

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Sample Form
Available on TJCTC Forms Page

CAUSE NO. _____		
PLAINTIFF	§	IN THE JUSTICE COURT
	§	
v.	§	PRECINCT ____
	§	
DEFENDANT	§	____ COUNTY, TEXAS

CITATION (SMALL CLAIMS OR DEBT CLAIM CASE)

THE STATE OF TEXAS

TO: _____, DEFENDANT in the above case:

This citation is issued pursuant to a petition filed by Plaintiff on _____, 20____. Plaintiff's attorney's name and address, or Plaintiff's address, if they have no attorney, are: _____.

Your answer must be filed with this court, located at _____, TX _____.

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

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Practice: Identifying the Parts of a Citation

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Stylized "The State of Texas"

THE STATE OF TEXAS

JUSTICE CIVIL CITATION

TO: RICHARD HALSTEAD
1529 BARTON SPRINGS RD UNIT 1
AUSTIN TX 78704

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Small Claims Citation

Directed to the Defendant

Notice of potential default judgment & statutory notice

Time defendant has to file a written answer

Date of filing & issuance

Court issued cause number

Your cause number is JS-CV-13-231919, case styled
JOSEPH ESLER; MIKA ESLER, Plaintiffs vs.
RICHARD HALSTEAD; MICHELLE HALSTEAD, Defendants
was filed in the Justice Court, Precinct Five, on September 06, 2013.

Issued and given under my hand on September 06, 2013.

Parties in the case

Signed by the judge or clerk under seal of court

Name & address of plaintiff's attorney or plaintiff's address

Plaintiff / Plaintiff Attorney / Plaintiff Agent (if applicable):
JOSEPH ESLER; MIKA ESLER
10538 SPRINGPARK AVE
BATON ROUGE LA 70810

563 1063 10443
<<<<SEE PETITION FOR TELEPHONE NUMBER>>>>

OFFICER'S RETURN

Came to the hand on the _____ day of _____, 20____ at _____ o'clock _____ M.
Executed at _____ within County of _____ at _____ o'clock _____ M. on the
_____ day of _____, 20____, by delivering to the within named _____

a true copy of this citation together with the accompanying copy of the petition having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.

To certify which witness my hand officially:

SERVING FEE

PAID
OK NO.
DATE

By _____ Carlos B. Lopez
County Clerk, Travis County, Texas
By Deputy _____

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Small Claims Petition

Type of Case

CAUSE NUMBER JS-CV-13-231919 RECEIVED JP #101
PLAINTIFF'S ORIGINAL PETITION
IN THE () JUSTICE COURT OR (X) SMALL CLAIMS COURT
PRECINCT FIVE, TRAVIS COUNTY, TEXAS 13 SEP -6 AM 11:18

Cause Number

Name of Plaintiff

PLAINTIFF(S) Joseph Esler; Mika Esler
(IF AN INDIVIDUAL, ANSWER THE FOLLOWING):
HOME ADDRESS 10538 Springpark Ave. Baton Rouge, Louisiana ZIP 70810 PH# 563-653-6443
BUSINESS OR EMPLOYER _____ ZIP _____ PH# _____
WORK ADDRESS _____ ZIP _____ PH# _____
(IF A BUSINESS ENTITY, ANSWER THE FOLLOWING)
NAME OF _____ AGENT OR _____ ATTORNEY _____
BUSINESS ADDRESS _____ ZIP _____ PH# _____

Name of defendant and location information

Reason for complaint or cause of action

HEREINAFTER CALLED PLAINTIFF, on oath deposes and says that:
DEFENDANT(S) Richard Halstead; Michelle Halstead
(IF AN INDIVIDUAL, ANSWER THE FOLLOWING):
HOME ADDRESS 1529 Barton Springs Road Unit 1 ZIP 78704 PH# 512-595-1531
BUSINESS OR EMPLOYER _____ ZIP _____ PH# _____
WORK ADDRESS _____ ZIP _____ PH# _____
(IF A BUSINESS ENTITY, ANSWER THE FOLLOWING)
NAME OF _____ OWNER OR _____ AGENT TO BE SERVED _____
ADDRESS FOR SERVICE _____ ZIP _____ PH# _____

Financial amount in dispute as basis/outcome for cause of action

HEREINAFTER CALLED DEFENDANT, is/are justly indebted to the Plaintiff in the sum of \$ 2333.20
for (BRIEFLY DESCRIBE THE NATURE OF THE CLAIM):

Plaintiff leased a condo and located at 300 Brown Street #1301 Austin, TX 78701 from the Defendant on 3/15/2012. A property condition report was supplied by the Plaintiff to the Defendant upon move in which included notations of the worn condition of the carpet. Plaintiff lived in the property until employment required the Plaintiff's relocation to Louisiana. On 7/30/2013 Plaintiff vacated the premises and notified Defendant that the property was vacant. Plaintiff paid Defendant August rent in full as the lease was set to expire 8/31/2013. On 7/30/2013 Defendant acknowledged Plaintiff's communication. No further communication occurred until 8/6/2013. On 8/6/2013 Defendant complained to Plaintiff about the condition of carpet. Defendant withheld \$1333.20 of Plaintiff's \$2600 dollar deposit. Plaintiff contends that Defendant is attempting to force Plaintiff pay for normal "Wear and Tear" to floor coverings. The Plaintiff is requesting the Defendant refund \$1333.20 withheld from the Plaintiff's deposit of \$2600 as well as the unpaid \$1000 in rent fees for the unpaid rent from Baton Rouge, LA to Austin, TX to attend court proceedings.

Such claim is, within the knowledge of the Plaintiff, just and true and all just and lawful offsets, payments and credits have been allowed. Plaintiff further requests that the court award reasonable Attorney's fees to the Plaintiff if allowable by law in the amount of \$ _____. Plaintiff reserves the right to plead further at the time of trial.

Signature Plaintiff

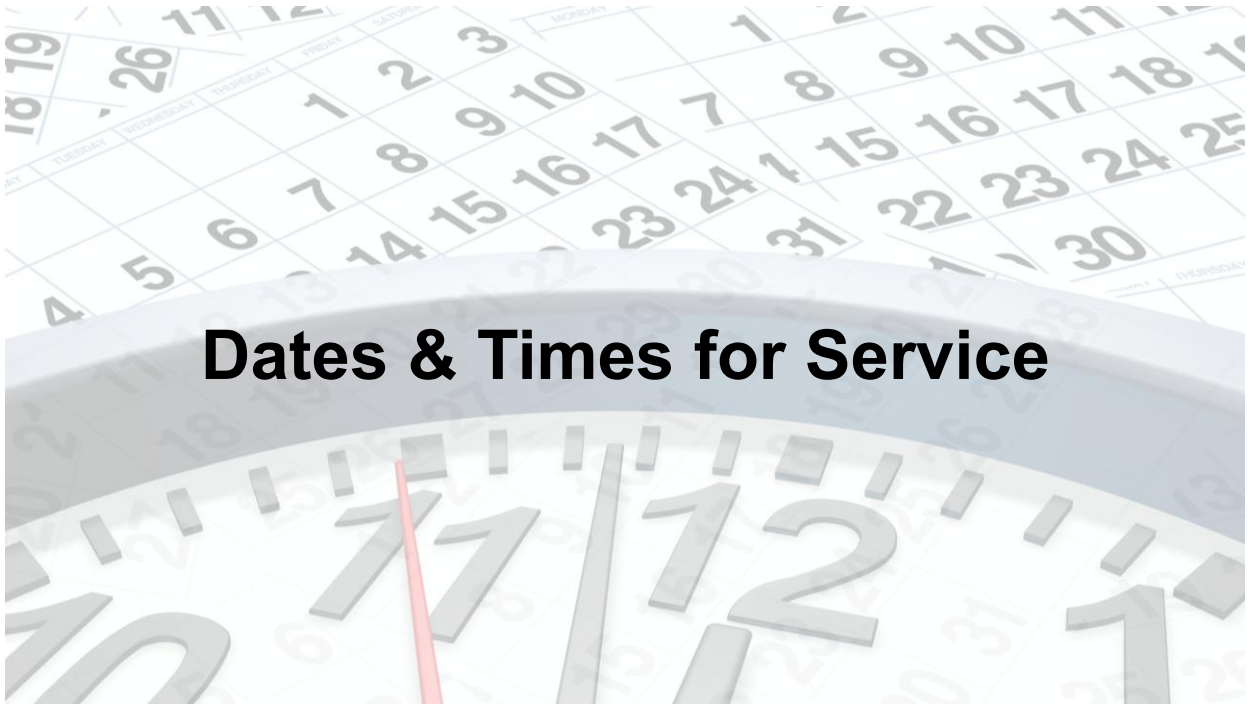
Plaintiff's Signature _____ Authorized Attorney/Agent Signature _____
Subscribed and Sworn to before me this _____ day of _____
To certify which witness my hand and seal of office.

Notary seal for Plaintiff's signature

Notary Public in and for the State of Texas
Civil Court Clerk, JP 5



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Can a Citation be Served on Sunday?

1. Yes
2. No

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Dates & Times for Service

Citations may be served Monday through Saturday, any time of the day.

- Citations may not be served on Sundays.
- Writs related to attachment, garnishment, sequestration, or distress proceedings CAN be served on Sunday.

If service is by publication, a citation published on Sunday is valid.

TRCP Rules 6, 105, & 501.2(d)

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Expiration for Service

Citations, unless for ad valorem taxes, don't expire for the purpose of serving, BUT service should be done as soon as possible and without delay.

- Ad valorem tax citations expire 90 days from the date of issuance and must be returned if not served by the 90 days.

TRCP Rule 117a

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Who May Serve the Citation?

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Who Serves the Citation?

Citations may be served by:

- Any sheriff, constable, or their deputies
- A private process server certified by the Judicial Branch Certification Commission,
- The clerk of the court IF served by publication, registered mail, or certified mail, or
- Any person authorized by law or by court order who is at least 18 years old.

TRCP Rules 103, 501.2(a)

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What About Evictions?

- An **eviction citation** can ONLY be served by a sheriff, constable, their deputies, or a person authorized by court order. (You will learn more about eviction citations in the Intro to Evictions course.)
- No person who is a party to or interested in the outcome of a suit may serve process in that suit.
- The citation may be served anywhere in the state.

TRCP Rules 103, 105, 106, 501.2(a), & 510.4

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Who has the Duty?

- The **Plaintiff** is responsible for obtaining service of the citation and petition on the defendant.
- The plaintiff decides who is going to serve the citation.
- If there is an issue finding a defendant, it is the plaintiff's responsibility to find other addresses to serve.

Ashley v. Hawkins, 293 SW3d 175; Allen v. Rushing, 129 SW3d 226; Boyattia v. Hinojosa, 18 SW3d 729.

TRCP Rules 103, 106, & 501.1

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Payment of Fees

The plaintiff must pay all fees for service unless they have filed a Statement of Inability to Afford Payment of Court Costs.

- Also referred to as an Affidavit of Inability to Pay Costs or Affidavit of Indigency.

If that statement is filed in a JP court, a process server CANNOT serve the citation, only a sheriff, constable, their deputies, or a clerk can.

TRCP Rules 103, 105, 106, & 501.2(c)

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Practice Tip

Go to apartment complexes and introduce yourself to the staff.

- Explain what your job is, why they might see you there, and how they can help.
- This is especially helpful regarding evictions.

This is useful to build rapport, so apartment staff:

- Won't interfere (then or in the future) when you're serving process.
- Will provide locating or forwarding information for a person if they have it.

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Methods of Service

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Methods of Service

A citation must be served by:

- Personal service on the defendant named in the citation,
- Give defendant a copy of the citation AND the petition with the date of delivery written on it.

OR

Mailing a copy of the citation AND petition to the defendant named in the citation.

- Must be by registered or certified mail with return receipt requested.
- Rule 501.2 allows an electronic return receipt, but Rule 106 does not.

TRCP Rules 106 & 501.2

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Case Law

“Generally, service of process needs to occur by handing the paperwork directly to the person being served. However, if the person refuses to accept service, they are held under Texas law to be personally served if 1) the person being served is identified; 2) they are informed of the nature of the process and that service is being attempted, and 3) the papers are deposited in an appropriate place in their presence or near them where they are likely to find them. *Dosamentes v. Dosamentes*, 500 S.W.2d. 233; *Texas Industries, Inc. v. Sanchez*, 521 S.W.2d. 133.”

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Additional Methods of Service

Available options **after** the previous options are unsuccessful:

- Alternative/Substituted Service
- Service by Publication

Must be requested from and approved by the court **after** attempts to serve by personal service or mail are unsuccessful.

- Plaintiff or anyone authorized to serve process can request alternative service.

TRCP Rules 106(b) & 501.2(e)

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Alternative or Substituted Service

The person requesting alternative service must submit a sworn affidavit explaining:

- The attempts made to serve by personal service or mail,
- How the attempts were not successful, and
- Provide the location of defendant's:
 - Usual place of business,
 - Usual place of residence, or
 - Other place where the defendant can probably be found.

TRCP Rules 106(b) & 501.2(e)

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Sample Request for Alternative
Service (*Small Claims and Debt
Claims Case*)

On the TJCTC website

- www.tjctc.org
- Under > Legal Resources
>Forms

ALTERNATIVE/
SUBSTITUTED
SERVICE

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How Alternative Service Works (County/District Courts)

If alternative service is authorized by Rule 106, service is by:

- Leaving a copy of the citation and petition with any person over the age of 16 at the location(s) specified in the affidavit;

OR

- By serving a copy in any manner the court determines will be reasonably effective in giving defendant notice of the suit.

TRCP Rule 106(b)

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How Alternative Service Works (Justice Courts)

If alternative service is authorized by Rule 501.2, service is by:

- Mailing a copy of the citation and petition by first class mail to defendant's address, AND leaving a copy of the citation and petition with any person over the age of 16 at the location(s) specified in the affidavit;

OR

- Mailing a copy of the citation and petition by first class mail to defendant's address, AND by serving a copy in any manner the court determines will be reasonably effective in giving defendant notice of the suit.

TRCP Rule 501.2(e)

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1. Sample Affidavits

<p>CAUSE NO. <u>324-703729-21</u></p> <p>STATE OF TEXAS COUNTY OF TARRANT</p> <p>REQUEST FOR AUTHORIZATION OF SERVICE UNDER RULE 106</p> <p>Before me, the undersigned authority, this day personally appeared <u>I. Romero</u> to me well known, and who, after being duly sworn by me did depose and say:</p> <p>I am a Deputy Constable employed by H.D. Clark III, Constable of Precinct One, Tarrant County, Texas, that I have personal knowledge of every statement herein made, and I am fully competent to testify as to the matters stated herein. I was assigned a Citation in Case No. <u>D324-703729-21</u> issued by the 324th District Court of Tarrant County, Texas styled <u>IN RE TRE MERIE JERVON WILSON, ET AL VS JIMMY JEROME WILSON</u> and was instructed to attempt service on <u>JIMMY JEROME WILSON at 4755 WOODBRIDGE DR., #1400, FORT WORTH, 76112</u>, Tarrant County, Texas and made the following listed efforts to serve said Citation to no avail:</p> <p>1. Good address, no contact, left card on door 8-25-21 at 4:29pm. 2. No contact, left card 9-13-21 at 3:37pm. 3. No contact 9-22-21 at 3:54pm. 4. No contact, spoke with neighbor who advised defendant works during the day, left card on door 9-28-21 at 3:17pm. 5. No contact, will return for alternate service approval 10-05-21 @ 1:07pm.</p> <p>By virtue of the aforementioned reasons the undersigned officer has reason to believe that the above-named defendant is avoiding delivery of process. It is impractical to secure personal service on the said defendant. I respectfully request the Judge of the Honorable court to authorize service of this Citation on said defendant by one of the following methods:</p> <p><input checked="" type="checkbox"/> (1) By leaving a copy of the citation and of the petition with anyone older than sixteen at the location specified in the statement; or</p> <p><input type="checkbox"/> (2) in any other manner, including electronically by social media, email, or other technology, that the statement or other evidence shows will be reasonably effective to give the defendant notice of the suit.</p> <p><u>I. Romero</u> Deputy Constable, Precinct 1 Tarrant County, Texas Date Signed: <u>11/18/2021</u></p> <p>Subscribed and sworn to before me on the _____ day of _____, 20____.</p> <p>(NOTARY STAMP)</p>	<p>Notary Public in and for Tarrant County, Texas</p> <p>ORDER OF THE COURT</p> <p>Alternate service under Rule 106 is granted on the _____ day of _____, 20____.</p> <p>Presiding Judge</p>
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2. Sample Affidavits

<p>CAUSE NO. <u>JP01-22-DC00019146</u></p> <p>PLAINTIFF VS DEFENDANT</p> <p>IN THE JUSTICE COURT PRECINCT ONE TARRANT COUNTY, TEXAS</p> <p>REQUEST FOR ALTERNATE SERVICE RULE 501.2(e)(1)(C)</p> <p>Before me, the undersigned authority this day personally appeared, <u>R. Wooten</u>, to me well known, and who, after being duly sworn by me, did depose and say:</p> <p>I am a Deputy Constable employed by H.D. Clark III, Constable of Precinct One, Tarrant County, Texas, that I have personal knowledge of every statement herein made, and I am fully competent to testify as to the matters stated herein. I was assigned a Citation in Case No. <u>JP01-22-DC00019146</u> issued by the Justice of the Peace, Precinct One Court of Tarrant, styled <u>MIDLAND CREDIT MANAGEMENT, INC VS RUAL CHAIDEZ</u> and was instructed to attempt service on DEFENDANT at <u>100 W. WEATHERFORD ST, #400, FORT WORTH, 76119</u>, Tarrant County, Texas and made the following listed efforts to serve said citation to no avail:</p> <p>On December 15, 2021 at 11:34 A.M. a attempt was made with no contact. On December 28, 2021 at 9:08 A.M. a attempt was made with no contact. On January 3, 2022 at 9:25 A.M. an attempt was made with no contact. On January 4, 2022 at 8:20 A.M. an attempt was made with no contact. On January 10, 2022 at 2:40 P.M. an attempt was made with no contact. On all of the above contacts a business card was left on the front door requesting that Rual Chadez contact Deputy Wooten, but no contact has been made. On the December 28, 2021 attempt Deputies were advise buy Rual Chadez's wife that Rual Chadez was out of town but would return on December 30, 2021.</p> <p>By virtue of the aforementioned reasons, the undersigned officer has reason to believe that the above-named defendant is avoiding delivery of process. It is impractical to secure personal service on the said defendant. I respectfully request the Judge of the Honorable court to authorize service of this citation on said defendant by one of the following methods:</p> <p>(1) By mailing a copy of the citation with a copy of the petition attached by first class mail to the defendant, DEFENDANT, at a specified address, <u>100 W. WEATHERFORD ST #400A, FORT WORTH, TX, 76117</u> and also leaving a copy of the citation with petition securely attached at the defendant's residence or other place where the defendant can probably be found with any person there who is at least 16 years of age; or</p> <p><input checked="" type="checkbox"/> (2) By mailing a copy of the citation with a copy of the petition attached by first class mail to the defendant, DEFENDANT, at a specified address, <u>100 W. WEATHERFORD ST #400A, FORT WORTH, TX, 76117</u> and also service by any other method that the court finds is</p>	<p>reasonably likely to provide the defendant with notice of the suit, to wit: <u>and also leaving a copy with the petition attached, securely attached to the outside of the defendant's front door residence.</u></p> <p><u>R. Wooten</u> Deputy Constable, Precinct 1 Tarrant County, Texas Date Signed: <u>8/22/2021</u></p> <p>Subscribed and sworn to before me on the _____ day of _____, 20____.</p> <p>(Notary stamp)</p> <p>Notary Public in and for Tarrant County, Texas</p> <p>ORDER OF THE COURT</p> <p>It is, accordingly authorized and ordered that service upon Defendant, be effected by delivering a copy of the citation with a copy of petition attached, in the approved method _____ described above.</p> <p>Entered and signed this _____ day of _____, 20____.</p> <p>Presiding Judge</p>
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3. Sample Affidavits

STATE OF TEXAS
COUNTY OF TARRANT

**REQUEST FOR AUTHORIZATION
OF SERVICE UNDER RULE 510.4 (c)**

Before me, the undersigned authority, this day personally appeared **I. Romero**, to me well known, and who after being duly sworn by me, did depose and say:

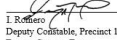
I am a Deputy Constable, employed by H.D. Clark III, Constable of Precinct No. 1, Tarrant County, Texas.

On the 19th day of May 2021, I was assigned an Eviction Citation, cause number **JP01-21-E0001234** issued out of Justice of the Peace One court of Tarrant County, Texas, and styled as **PLAINTIFF VS. DEFENDANT AND ALL OCCUPANTS** and was instructed to attempt service on **DEFENDANT** at **100 W. WEATHERFORD STREET, FORT WORTH, 76106** in Tarrant County, Texas.

The citation has been in my possession for 5 days or less and despite diligent efforts at all addresses listed I have been unable to personally deliver the citation.

I have made the following efforts to personally serve the defendant:
Attempted contact at the address on 09/08/20 @ 07:35am and on 09/09/20 @ 10:30am. No contact was made with anyone over the age of 16 on either attempt.

The attempts include at least two attempts at each of the addresses listed on the sworn complaint by the plaintiff. I therefore request authorization to serve citation by (a) placing the citation inside the premises by placing it through a door mail chute or by slipping it under the front door or by securely affixing citation to the front door or main entry to the premises; (b) by depositing in the mail a true copy of such citation addressed to defendant at the premises in question.


 I, Romero
 Deputy Constable, Precinct 1
 Tarrant County, Texas
 Date Signed: 4/22/2021

Subscribed and sworn to before me on the _____ day of _____, 20____.

(NOTARY STAMP) _____
Notary Public in and for Tarrant County, Texas

ORDER OF THE COURT

Herein above motion came on for hearing this day and after due consideration this motion is herewith granted and entered this, the _____ day of _____, A.D. 20____.

 Justice of the Peace
 Judge Ralph Sverengren Jr.
 Precinct No. 1
 Tarrant County, Texas

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Service by Publication

Allowed when plaintiff or plaintiff's attorney makes a sworn statement that:

- Defendant's address is unknown,
- Defendant is transient and can't be located after diligent efforts, or
- Defendant is absent from or a nonresident of Texas, and personal service on the defendant in his or her state of residence has been unsuccessful.

TRCP Rules 109, 116, & 501.2(f)

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How Does Publication Work?

If allowed, the citation is published:

- Once a week for 4 consecutive weeks.
- With the first publication done at least 28 days before the return date of the citation.

TRCP Rules 109, 116, & 501.2(f)

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Service by Publication: Newspaper

If the suit **does not** involve title to land or partition of real estate, publication is in:

- The county where the case is pending if that county has a newspaper, or
- If that county does not have a newspaper, in an adjoining county with a newspaper.

If the suit **does** involve title to land or partition of real estate, publication is in:

- The county where the land, or a portion of the land, is located if that county has a newspaper, or
- If that county does not have a newspaper, in an adjoining county that has a newspaper.

TRCP Rules 109, 116, & 501.2(f)



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Service by Publication: Public Information Internet Website

NEW Requirement!

- Generally, in addition to newspaper publication, the citation must be published on the Public Information Internet Website: <https://topics.txcourts.gov/>
- This is done by the court clerk
- In some cases, publication in the newspaper may not be required, and publication will only be made on the Public Information Internet Website:
 - If the party requesting the citation files a Statement of Inability to Afford Payment of Court Costs;
 - If the total cost of the required publication exceeds \$200 each week or an amount set by the TX Supreme Court (whichever is greater); or
 - If the county in which the publication is required does not have any newspaper published, printed, or generally circulated in the county.

TRCP Rules 116 & 501.2

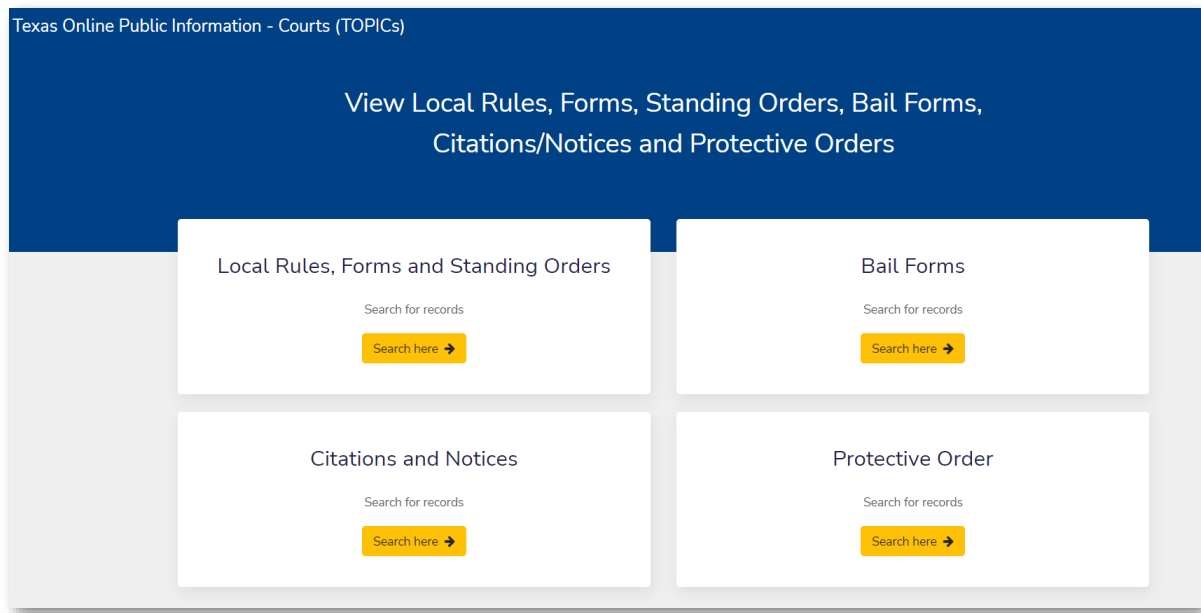
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Have you visited the TOPICs
Website yet?

(Texas Online Public Information-Courts)

1. Yes
2. No

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Service by Social Media and Other Changes

- **The Texas Supreme Court issued an order** making changes to Rules 106 & 108a effective December 31, 2020.
- Most of these changes were made to make the language of the rules more clear and less confusing.
- A major change is that Rule 106 explicitly allows substitute service “electronically by social media, email, or other technology”
- Full text of the order can be found at:
 - <https://www.txcourts.gov/media/1449613/209103.pdf>

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Service by Social Media

- Any substitute service by social media or other electronic means will need to be executed according to the court's order.
- The court may ask for your input on what should be included in their order.

Has anyone drafted a proposed policy or discussed this with their courts?

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Who is the Citation Delivered to?

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Deliver the Citation to:

If the case is against an individual:

- Defendant named in the citation.
- If alternative service is allowed: any person over the age of 16.

If the case is against a business:

- Business owner or registered agent for service.
- If the business is a partnership: at least one of the partners.
- If the business owner can't be located, isn't a resident of the county, or isn't a resident of Texas: an agent or clerk of the business.

CPRC §17.021 & 17.022

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Practice Tip

Have the plaintiff give you a copy of the defendant's photograph and/or description before you attempt to serve:

- You'll know who you're looking for.
- You'll know if you're talking to the defendant even if he/she tells you their name is something different.

If you have determined it's the defendant, but they tell you their name is something else:

- In a non-confrontational way, explain that unless they can prove they are someone else they are considered served.
- It is *advisable* not to deliver the citation unless you can determine the identity or until the defendant admits or confirms their true identity.

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Service on a Partnership

If a suit is against several partners who are jointly indebted under a contract and citation has been served on at least one, but not all partners, the court:

- May render judgment against the partnership and against the partners who were actually served, but
- May not award a personal judgment or execution against any partner who was not served.
- Best practice: serve ALL partners if possible

CPRC §31.003

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Service on a Dissolved Corporation

When a case is filed against a dissolved corporation, the citation may be served on the:

- President,
- Directors,
- General manager,
- Trustee,
- Assignee, or
- Other person in charge of affairs at the time the corporation was dissolved.

TRCP Rule 29

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1. Who to Serve When it's Not Obvious

Political subdivisions:

- County: the county judge.
- City: mayor, clerk, secretary, or treasurer.
- School district: president of the school board or the superintendent.
- Financial institution:
 - Registered agent, president, or branch manager.
- Credit union:
 - Registered agent, president, or vice president.

CPRC §17.024 & 17.028

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2. Who to Serve When it's Not Obvious

Prison inmate:

- Employee designated by the Warden to act as an agent for service;

Suit against a non-resident business entity:

- Person in charge, resident agent for service, or Secretary of State;

Delinquent tax suit:

- Secretary of State.

CPRC §17.029 & 17.044

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3. Who to Serve When it's Not Obvious

Transportation suits:

- Person in charge, designated resident agent for service, or the Texas Transportation chairman;

Utility supplier:

- Local agent, superintendent, representative, or person in charge;

Foreign Railway:

- Conductor or agent who sells tickets or makes contracts.

CPRC §17.062, 17.091, & 17.093

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Service Duties & Requirements of the Officer

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1. Service Duties & Requirements

- “Officer” doesn’t necessarily mean law enforcement; it means the person serving the citation.
- The officer’s **only** responsibility is to hand the citation and petition to the person being served.
- The officer may not force a person to open the door, accept service, or use force to enter.

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2. Service Duties & Requirements

When serving the citation, the officer must:

- Enter the citation into their record keeping system.
- Write/stamp on the citation the date and time when the officer received it.
- Write the date of delivery on the citation before giving it to the defendant.
- Serve the citation on the defendant.
- Proceed without delay.
- Attempt service at all addresses provided.
- Keep copies of all documents in accordance with established record retention schedules.

TRCP Rule 501.2

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Attempting Service

The number of attempts required varies by agency, but multiple, diligent attempts at different times of the day should be made.

Remember: alternative service cannot be requested until attempts to serve by personal delivery or mail are unsuccessful.

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Records must be retained and may be destroyed pursuant to established retention schedules.

Retention of records relating to service of process:

Local Schedule PS – Retention Schedule for Records of Public Safety Agencies

www.tsl.state.tx.us/slr/recordspubs/localretention

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Fee Collection

The officer is **NOT** entitled to demand his or her fee for service in advance of serving the process.

- The officer's fee is to be taxed and collected as other costs in the case.

Exception: if the officer is serving process for a case pending in another county, then the officer may require payment before serving **unless** a Statement of Inability to Afford Payment of Court Costs has been filed.

TRCP Rules 17 & 126

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Return Duties & Requirements of the Officer

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1. Return Duties & Requirements

Once the citation is served, the officer must complete a return of service.

- The court issued return may be used OR it can be a separate document.

The officer must sign the return and file it with the clerk of the proper court.

- If the officer is not a constable, sheriff, their deputies, or the court clerk, the signature must be sworn to and notarized.
- Return may be in person, electronically, or by fax.

TRCP Rules 15, 16, 107, & 501.3

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2. Return Duties & Requirements

The return should be filed as soon as the citation has been served.

The return must be filed:

- At least 3 days before a default judgment can be granted in justice court
- At least 10 days before default judgment can be granted in district and county court.

TRCP Rules 107, & 501.3

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3. Return Duties & Requirements

- Include the cause number.
- Include the case name.
- Include the name and county of the court where the case is filed.
- Indicate the date and time the citation was received for service.
- Include the name of the person or entity served.
- Indicate the address where the citation was served.
- Include the date(s) and time(s) of service and/or attempted service.
- Indicate the manner of delivery of service and/or attempted service.
- Description of what was served.

TRCP Rules 107, & 501.3

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4. Return Duties & Requirements

- Name of the person(s) who served and/or attempted service.
- If the person serving is a process server, his or her identification number and expiration date.
- If the citation was served by registered or certified mail, include the return receipt with the addressee's signature.
- If the citation was served by publication, specify the dates of publication and include a printed copy of the publication.
- Any other information required by rule or law.
- Any additional information specific to the service that should be noted in the file.

TRCP Rules 107, 117 & 501.3

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More is Better

Don't feel obligated to use, or limited to, the return section printed on the citation.

- If you need more space, use a separate document.
- The more detail you provide, the better off you are.
- If proper service becomes a contested issue in court, your return will protect you and help refresh your memory if you must testify.

Sample Return

- On the TJCTC website
 - www.tjctc.org
 - Under "forms"

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Liability for Failure to Execute & Return

If a constable fails or refuses to execute and return a process that is lawfully directed and delivered to him or her, the constable **shall** be fined for contempt on the motion of the person injured by the failure or refusal.

- Applies to deputy constables in the same way.

Fine of \$10 - \$100 plus costs paid to the injured person.

May be liable for damages as a result of negligence or refusal.

Local Government Code §86.021 & 86.024, CPRC §7.001

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Citation Process – Sample

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Serving a Citation: Step 1

You receive a citation from the clerk's office to serve. What do you do first?

- Create a case file/folder with an information coversheet or index card.
 - Urban offices: the file may come to you already prepared.
 - Rural offices:
 - 3 section folders work well for separating documents into documents that are given to the defendant, documents issued by the court, and a work product section.

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Serving a Citation: Step 2

After assembling the folder, what do you do next?

- Record the following on the information coversheet:
 - Party names
 - Cause Number
 - Issuing court
 - Court date
 - Date received
 - Type of document
 - Deputy assigned to serve
 - Name and address of person to be served

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Sample
Form
Available on www.tjctc.org

[illegible]

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Serving a Citation: Step 3

On June 1, 2018, at 10:30 AM you go to 625 Lost Key Dr. to serve the citation.

The address for service is not a business but a house.

You knock loudly several times, but no one answers the door.

What do you do while you're at the location?

- Leave a business card with the cause number written on it if you have one.
- What do you do when you get back in your car or back to the office?

Date	Time	Deputy	Notes
6/1/18	10:30 AM	KH	Address is a home, no one there, left business card

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Serving a Citation: Step 4

- On June 5, 2018, at 6:00 PM you go back to 625 Lost Key Dr. to try serving the citation again.
- No one is home and your business card is still stuck in the door where you left it.
- The next morning, you send an email to plaintiff's attorney asking if they know of any other addresses where you can serve the defendant's agent.
- Plaintiff's attorney responds and says they don't have any other addresses for the defendant or defendant's agent. The attorney wants you to request alternative service.
- You submit a sworn affidavit and request alternative service from JP 2.

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What does your information sheet look like now?

ATTEMPTS:			
Date	Time	Deputy	Notes
6/11/18	10:30 AM	KH	Address is a home, no one there, left business card
6/15/18	6:00 PM	KH	No one at address, business card still in door.
6/5/18 - Sent email to plaintiff's attorney to see if they have other addresses to serve.			
6/6/18 - Plaintiff's attorney e-mailed that they don't have any other addresses for defendant or defendant's agent. They want alternative service.			
6/6/18 - Requested alternative service from JP 2			

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Serving a Citation: Step 5

- On June 13, 2023, the court grants alternative service by mailing a letter to defendant's agent and leaving a copy of the citation and petition with anyone over age 16 at Lost Key Golf Club.
- On June 13, 2023, at 11:00 AM, you hand the citation and petition to Allen Goode, the golf pro. You also mail the citation and petition certified mail with return receipt requested.
- On June 25, 2023, you receive the return receipt with the agent's signature. Later that afternoon you file your return with the court.

What does your information sheet look like now

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BLUE FALCON COUNTY, TEXAS
PRECINCT ONE
CURTIS HARRINGTON, CONSTABLE

INFORMATION COVERSHEET

Plaintiff: Adam Scott Cause No. CV-2018-02508
 Defendant: GPD-GC LLC DBA Lost Key Golf Club Court: JP2 - Blue Falcon County
 Type of document: Citation Court date: _____
 Date Received: 5/31/18 Deputy assigned: Hughes
 Person(s) to be served: Greg Jones
 Address for service: 625 Lost Key Dr, Austin, TX 78735

EXECUTED BY: K. Hughes
 DATE EXECUTED: 6/13/18 TIME EXECUTED: 11:00 AM
 DATE RETURNED: 6/25/18

ATTEMPTS:

Date	Time	Deputy	Notes
6/1/18	10:30 AM	KH	Address is a home, no one there, left business card
6/5/18	6:00 PM	KH	No one at address, business card still in door.
6/13/18	11:00 AM	KH	Served Allen, golf pro + mailed copies via certified mail. Full name: Allen Goode

6/5/18 - Sent email to plaintiff's attorney to see if they have other addresses to serve.
 6/6/18 - Plaintiff's attorney e-mailed that they don't have any other addresses for defendant or defendant's agent. They want alternative service.
 6/6/18 - Requested alternative service from JP2
 6/13/18 - Alternative service granted - mail letter to agent (certified w/ return receipt requested) + serve someone 16+ at Lost Key Golf Club.
 6/25/18 - Filed return with mail return receipt with agent's signature attached.

Serving a Citation: Step 6

Filing the return

- Should you file the day you mailed the citation and petition or wait until you get the return receipt with the agent's signature?

What if you filed the return the day you mailed the citation and petition?

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Serving a Citation: Step 7

Do you use the return on the citation or a separate document?

•Pros and cons of using the return on the citation?

•Pros and cons of using a separate document?

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Safety

- Complacency: the mindset where you become comfortable with an existing situation and stop looking for potential hazards.
 - Familiar, routine, and repetitive tasks that don't require active problem solving;
 - Long track record where nothing has gone wrong;
 - Could develop a false sense of security;
 - Being less attentive.

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Plan Ahead

- **Identify** the hazards or risks;
- **Predict** what could happen;
- **Decide** what actions you could take;
- **Execute** the plan if you must.

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Questions?

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