

Citations 101

Thomas Sanders, Ph.D.
Chief Deputy Constable
Tarrant County Precinct 1

1

Funded By a Grant From the Texas Court of Criminal Appeals

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2

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

3

What We Will Discuss

- What is a Citation?
- Requirements of the Citation
- Dates & Times for Service
- Who May Serve the Citation
- Methods of Service
- Who the Citation is Delivered To
- Service Duties and Requirements of the Officer
- Return Duties and Requirements of the Officer
- Safety

4

2

What Types of Cases?

- This class will cover the general rules for citations in civil cases.
- Evictions have certain specific rules and procedures that are different from other civil cases.
- You will learn more about eviction citations in the Evictions 101 course.

TRCP Rule 510.8

5

Rules of Civil Procedure

All rules except Rules 500 – 510

- Apply to cases in county and district court.

Rules 500 – 509 (non-eviction civil) & 510 (evictions)

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

6

What is a Citation?

7

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

8

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

9

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.

10

Requirements of the Citation

11

1. Main Requirements of the Citation

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

TRCP Rules 99 & 501.1(b)

12

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)

13

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)

14

District or County Court:

Statutory Notice Wording

"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)

15

Justice Court:

Statutory Notice Wording

"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)

16

Sample Form
Available on TJCTC Forms Page

PLAINTIFF _____		§ IN THE JUSTICE COURT
V. _____		§ PRECINCT _____
DEFENDANT _____		§ _____ COUNTY, TEXAS

CAUSE NO. _____

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

17

Practice: Identifying the Parts of a Citation

18

Small Claims Petition

CAUSE NUMBER: TS-CV-13-231919 RECEIVED JP AMI
TRAVIS COUNTY

PLAINTIFF'S ORIGINAL PETITION
IN THE [] JUSTICE COURT OR [] SMALL CLAIMS COURT
PRECINCT FIVE, TRAVIS COUNTY, TEXAS 013 SEP -6 AM 11:18

PLAINTIFF(S) Joseph Ester, Mike Ester
(IF AN INDIVIDUAL, ANSWER THE FOLLOWING):
HOME ADDRESS 10338 Springpark Ave, Baton Rouge, Louisiana ZIP 70810 PH# 563-663-4443
BUSINESS OR EMPLOYER
WORK ADDRESS ZIP PH#
(IF A BUSINESS ENTITY, ANSWER THE FOLLOWING)
NAME OF [] AGENT OR [] ATTORNEY
BUSINESS ADDRESS ZIP PH#

HEREINAFTER CALLED PLAINTIFF, on oath deposes and says that:

DEFENDANT(S) Ronald Hanehead, Michelle Hanehead
(IF AN INDIVIDUAL, ANSWER THE FOLLOWING):
HOME ADDRESS 1529 Barton Springs Road Unit 1 ZIP 78704 PH# 512-999-1531
BUSINESS OR EMPLOYER
WORK ADDRESS ZIP PH#
(IF A BUSINESS ENTITY, ANSWER THE FOLLOWING)
NAME OF [] OWNER OR [] AGENT TO BE SERVED
ADDRESS FOR SERVICE ZIP PH#

REBELLERANT 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 located at 209 Bowie Street #1301 Austin, TX 78703 from the Defendant on 07/02/2012. 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 7/7/2013 Plaintiff leased the premises and notified the Defendant that the property was vacant. Plaintiff paid Defendant August rent in full, as the lease was set to expire 8/1/2013. On 7/30/2013 Defendant acknowledged Plaintiff's communication. No further communication occurred until 6/6/2013. On 8/6/2013 Defendant complained to Plaintiff about the condition of carpet. Defendant withheld \$1333.20 of Plaintiff's \$2600 dollar deposit. Plaintiff contacts the Defendant is attempting to have Plaintiff pay for normal "Wear and Tear" to floor coverings. The Plaintiff is requesting the Defendants refund \$1333.20 which has the Plaintiff's deposit as well as the expense \$1000 in travel fees to the defendant's home in Baton Rouge, LA to Austin, TX to attend our 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 fees to the Plaintiff if allowable by law in the amount of \$ []
Plaintiff reserves the right to amend further at the time of trial.

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.

Joseph E. Ester
Notary Public in the State of Texas
TONY MARTINEZ
Notary Public, State of Texas
Mobile Notary Express
September 29, 2013

Civil Court Clerk, JP 5

21

Small Claims Petition

Type of Case

Name of Plaintiff

Reason for complaint
or cause of action

Plaintiff's Signature

Notary seal for Plaintiff's
signature

Cause Number

Name of defendant and
location information

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

TRCP 47, 48, 78, 79, 117 a

22

1. Sample Citations – District Court

ORIGINAL		506
NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA NCP Name: LOUIS ANTHONY ERCOLANO CP Name: EBONY SIMONE WALKER OAMO Name: 001219497		
CITATION CONSTABLE DALE CLARK TARRANT COUNTY TEXAS 2021 DEC 15 AM 9:12 DATE 1961 DEPTY		
THE STATE OF TEXAS The undersigned WALKER, 7500 Maplewood Ave #135 You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the court within 20 days after you were served this citation, then on the Monday next following the expiration of twenty days after you were served this citation, Person to whom this citation was served, or his/her attorney, may file a default judgment against you. In addition to filing a written answer with the court, you may be required to make full disclosure to the court of all information you have in your possession, no later than 30 days after you file your answer with the clerk. Find out more at www.texascourts.gov		
The accompanying pleading was filed on the 19 day of November 2021 in the individual court in the County of Tarrant, Texas, and was filed in the County of Tarrant, Texas, on the 19 day of November 2021 in the County of Tarrant, Texas, in the month following the expiration of twenty days after you were served with this citation and cause of action.		
File Number: 001219497 Court: 27TH JUDICIAL DISTRICT COURT Cause Number: 28-085-A Other parties to the action: LOUIS ANTHONY ERCOLANO		
ISSUED under my hand and seal of court this 9 day of Dec 2021 JOANNA STATION, District Clerk TARRANT COUNTY State Bar No. 2407254 5011 SALLIE YURKIE DR FORT WORTH, TX 76133 Fax (817)571-2791 Attorney for Plaintiff		
RETURN OF SERVICE IN THE INTEREST OF LOUIS ANTHONY ERCOLANO AMIR RASHAD ERCOLANO CHILDREN		
This process was received on the 9 day of December 2021 at 10:00 AM <input type="checkbox"/> I served a copy of this process endorsed with the date of delivery, together with the Petition to Establish the Parent-Child Relationship, Suit for Modification and Motion to Confirm Support Arrangement on EBONY SIMONE WALKER, at 7500 MAPLEWOOD AVE APT 133 NORTH RICHLAND HILLS, TX 76180-0955-35 1000 NORTH RICHLAND HILLS MILITARY ARMED ACTIVES/9201 TANK DESTROYER BLVD FORT WORTH, TX 76144-4905-21, on <input type="checkbox"/> Other (S) me (S) her (S) us (S) us		
<input type="checkbox"/> Not excepted FEES: Serving one (1) copy SHERIFF-CONSTABLE By: County, Texas Total \$ 5.00		
This document was not prepared by the Sheriff or his/her District Clerk		

2. Sample Citations – District Court

Kfw 3372295
001-001 THE STATE OF TEXAS

TO: RAFAEL PEREZ (CID# 0541741)
4644 STANDARD WAY, APT 527
FORT WORTH, TEXAS 76179
Green Bay 4CT

You are hereby commanded to appear by filing a written answer to the Petitioner's Notice of Seizure and Intended Forfeiture before the 297TH DISTRICT COURT, a District Court in and for Tarrant County, Texas, at the Tim Curry Criminal Justice Center, 401 West Belknap Street, Fort Worth, Tarrant County, Texas, said Petitioner being the State of Texas, filed in said Court on the 14th day of DECEMBER 2021.

For suit, said suit being numbered S-15012 the nature of which demand is as shown on said Notice of Seizure and Intended Forfeiture, a certified copy of which accompanies this Citation.

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 (20) days after you were served this Citation and Notice of Seizure and Intended Forfeiture, a default judgment may be taken against you.

WITNESS: THOMAS A. WILDER,
CLERK OF THE DISTRICT COURT OF TARRANT COUNTY, TEXAS,
GIVEN UNDER MY HAND AND THE SEAL OF SAID COURT, IN THE
CITY OF FORT WORTH, THIS 17 DAY OF DECEMBER, 2021.

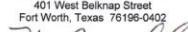
By: 
Deputy District Clerk

DA #57477AF

A/F
CITATION
NO. S-15012
THE STATE OF TEXAS
VS.
\$5,000.00 IN U.S. CURRENCY AND
FIREARMS

Issued DECEMBER 14 2021

THOMAS A. WILDER
CLERK, DISTRICT COURT
TARRANT COUNTY, TEXAS
Tim Curry Criminal Justice Center
401 West Belknap Street
Fort Worth, Texas 76195-0402

By: 
Deputy District Clerk

Attorney for the Petitioner
THE STATE OF TEXAS

DEBRA LOCKHART
401 W. Belknap Street
Fort Worth, Texas 76196
(817) 884-1400

Dates & Times for Service

25

Can a Citation be Served on
Sunday?

1. Yes
2. No

26

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)

27

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

28

Who May Serve the Citation?

29

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)

30

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

31

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)

32

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.

33

Methods of Service

34

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.

TRCP Rules 106 & 501.2

35

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.”

36

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)

37

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)

38

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

39

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)

40

How Alternative Service Works (Justice Courts)

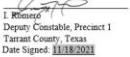
If Alternative service is authorized by Rule 501.2, service is by:

- 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)

41

1. Sample Affidavits

<p>CAUSE NO. 324-703718-21</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. Remero</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. D324-703729-21 issued by the 324th District Court of Tarrant County, Texas styled INRE TRE'MERE JERON WILSON, ET AL VS JIMMY JEROME WILSON and was instructed to attempt service on JIMMY JEROME WILSON at 6755 WOODBRIDGE DR., #1400, FORT WORTH, #1412, Tarrant County, Texas and made the following listed efforts to serve said Citation to me as all:</p> <p>1. At 9:28:21 am 10-0-21, left card on door 6-25-21 at 4:30pm. 2. No contact. left card 9-13-21 at 3:37pm. 3. No contact 9-23-21 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 10-0-21 @ 1:07pm.</p> <p>By virtue of the aforementioned reasons the undersigned officer has reason to believe that the above-stated 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> I. Remero 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_____. (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_____. Presiding Judge _____</p>
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42

2. Sample Affidavits

<p>CAUSE NO. JP01-22-DC00019146</p> <p>PLAINTIFF VS DEFENDANT</p> <p>REQUEST FOR ALTERNATE SERVICE RULE 501.2(a)(2)</p> <p>Before me, the undersigned authority this day personally appeared, R. Wooten, 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. JP01-22-DC00019146 issued by the Justice of the Peace, Precinct One, County of Tarrant, styled MIDLAND CREDIT MANAGEMENT, INC. v. Raul CHADEZ and was instructed to attempt service on DEFENDANT at 100 W. WEATHERFORD ST. #460, FORT WORTH, 76119, 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 7:25 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 occasions, a service card was left on the front door requesting that Raul Chadez contact Deputy Wooten, but no contact has been made. On the December 28, 2021 attempt Deputies were advised by Raul Chadez's wife that Raul 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><input type="checkbox"/> (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, 100 W. WEATHERFORD ST #460A, FORT WORTH, TX., 76117 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, 100 W. WEATHERFORD ST #460A, FORT WORTH, TX., 76117 and also service by any other method that the court finds is</p>	<p>IN THE JUSTICE COURT PRECINCT ONE TARRANT COUNTY, TEXAS</p> <p>reasonably likely to provide the defendant with notice of the suit, to wit: and also leaving a copy with the petition attached, securely attached to the outside of the defendant's front door residence.</p> <p> R. Wooten Deputy Constable, Precinct 1 Tarrant County, Texas Date Signed: 4/22/2021</p> <p>Subscribed and sworn to before me on the _____ day of _____, 20_____. (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 on 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_____. _____ Presiding Judge</p>
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43

3. Sample Affidavits

<p>STATE OF TEXAS COUNTY OF TARRANT</p> <p>REQUEST FOR AUTHORIZATION OF SERVICE UNDER RULE 510.4 (c)</p> <p>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:</p> <p>I am a Deputy Constable, employed by H.D. Clark III, Constable of Precinct No. 1, Tarrant County, Texas.</p> <p>On the 18th 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, 76196 in Tarrant County, Texas.</p> <p>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.</p> <p>I have made the following efforts to personally serve the defendant: Attempted contact at the address on 09/08/20 at 07:00am and on 09/09/20 at 10:30am. No contact was made with anyone over the age of 16 on either attempt.</p> <p>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.</p> <p> I. Romero Deputy Constable, Precinct 1 Tarrant County, Texas Date Signed: 4/22/2021</p> <p>Subscribed and sworn to before me on the _____ day of _____, 20_____. (NOTARY STAMP)</p> <p>Notary Public in and for Tarrant County, Texas</p> <p>ORDER OF THE COURT</p> <p>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 Swearingin Jr. Precinct No. 1 Tarrant County, Texas</p>

44

Service by Social Media and Other Changes

- The Texas Supreme Court issued an order in compliance with laws 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 was that Rule 106 now 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>

45

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 (i.e. email, messenger apps).
- The court may ask for your input on what should be included in their order.
- Does your agency have a policy or procedure for this?

46

Service by Social Media – Actual Examples

NO. 322-69828-21

IN THE INTEREST OF
MORGAN A.J. MCCLURE
A CHILD

IN THE DISTRICT COURT
THOMAS A. WILDER, JUDGE
JUDICIAL DISTRICT
TARRANT COUNTY, TEXAS

ORDER ON MOTION FOR OTHER SUBSTITUTED SERVICE

On December 28, 2023, the Court considered the Motion for Other Substituted Service via Facebook Messenger filed by DIANA LYNN HARDY. The Court finds that service of citation by publication on DEANNA LYNN WILL is authorized and that the following method of service would be as likely as publication to give DEANNA LYNN WILL actual notice.

IT IS ORDERED that service on DEANNA LYNN WILL be effected by delivery of the citation, petition and any other necessary documents by Facebook Messenger to the Facebook account for DEANNA LYNN WILL at <https://www.facebook.com/Deez203Nutter>. The officer executing the citation shall state on the return the manner in which service is accomplished and shall attach any evidence showing the result of the service.

SIGNED on December 28, 2023


JUDGE PRESIDING

PREPARED BY:


By **Diana Lynn Hardy, Pro Se**
Phone: (951) 442-9945
Email: lgardner89@gmail.com
Address: 13344 Dove Ranch Road, Roanoke, Texas 76262

2023 JUN 3 AM 10:00
THOMAS A. WILDER
JUDICIAL DISTRICT
TARRANT COUNTY

322-757283-24

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

CAUSE NO. 322-757283-24

IN THE INTEREST OF
HANNA LYNN LUMMUS
A CHILD

IN THE DISTRICT COURT OF
TARRANT COUNTY, TEXAS
322ND JUDICIAL DISTRICT

ORDER FOR SUBSTITUTED SERVICE BY SOCIAL MEDIA OR OTHER TECHNOLOGY

On this date, a Motion for Substituted Service by Social Media or Other Technology was presented to this Court.

After reviewing the pleadings and hearing argument of counsel, the Court finds that this is a suit filed under Chapter 161 or 262 of the Texas Family Code and that citation as specified in this order is likely to give SHERMAN LUMMUS actual notice.

IT IS THEREFORE ORDERED that the clerk shall issue, and the Sheriff or Constable shall post and return, citation on SHERMAN LUMMUS by electronic communication sent to SHERMAN LUMMUS through a social media presence in this case as authorized under §17.033, Texas Civil Practice and Remedies Code. Citation shall be served by **VIA EMAIL** shermanjr@gmail.com.

SIGNED this 18th day of October, 2024.


JUDGE PRESIDING

47

Service by Social Media – Suggested Process

1 of 2

1. Date and Time stamp when the documents are received in your office.
2. When you are ready to deliver the documents by social media or email, write the date/time of delivery on the “service copy.”
3. Scan all the documents that will be served.
4. If service via email:
 - a. Write and address an email to the defendant.
 - b. “Tag” the email with
 - “Request a delivery receipt for this message”
 - “Request a read receipt for this message”
 - c. Select “High Importance”

48

Service by Social Media – *Suggested Process*

2 of 2

5. Attach the scanned copy of the documents to the email
6. Send.
7. Print a copy of the email that you just sent.
8. Print a copy of any return you received from your email provider.
9. Complete the service return on the citation.
10. Attach a copy of the email you sent and a copy of the response from your email provider.

49

Service by Social Media – *Examples*

Thomas L. Sanders

From: Thomas L. Sanders
Sent: Thursday, August 21, 2025 8:37 AM
To: dallastocall@gmail.com
Subject: Service of Citation, Cause No. 360-769882-25
Attachments: 360-769882-25 FRANKLIN.pdf

Importance: High

Mr. Devin Franklin,

By order of the 360th District Court, Tarrant County, Texas, the attached Citation and Petition, Cause No. 360-769882-25, is hereby delivered to you, pursuant to the Texas Civil Practice and Remedies Code, § 17.033.

Thomas Sanders, *Ph.D.*
Chief Deputy Constable
Tarrant County, Precinct 1
100 W. Weatherford St. #460A
Fort Worth, Texas 76196
817-884-1385

Thomas L. Sanders

From: Microsoft Outlook
To: dallastocall@gmail.com
Sent: Thursday, August 21, 2025 8:34 AM
Subject: Relayed: Service of Citation, Cause No. 360-769882-25

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

dallastocall@gmail.com (dallastocall@gmail.com)

Subject: Service of Citation, Cause No. 360-769882-25



50

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)

51

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)

52

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.
- 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.

TRCP Rules 109, 116, & 501.2(f)

53

Service by Publication: Public Information Internet Website

- 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

54

Have you visited the TOPICs Website yet?

(Texas Online Public Information-Courts)

1. Yes
2. No

55

Texas Online Public Information - Courts (TOPICs)

View Local Rules, Forms, Standing Orders, Bail Forms,
Citations/Notices and Protective Orders

Local Rules, Forms and Standing Orders

Search for records

Search here ➔

Bail Forms

Search for records

Search here ➔

Citations and Notices

Search for records

Search here ➔

Protective Order

Search for records

Search here ➔

56

Who is the Citation Delivered to?

57

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

58

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.

59

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

60

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

61

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

62

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

63

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

64

Service Duties & Requirements of the Officer

65

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.

66

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

67

Attempting Service

The number of attempts required varies by agency, but multiple, diligent attempts on different days/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.

68

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/sirm/recordspubs/localretention](http://www tsl.state.tx.us/sirm/recordspubs/localretention)

69

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

70

Return Duties & Requirements of the Officer

71

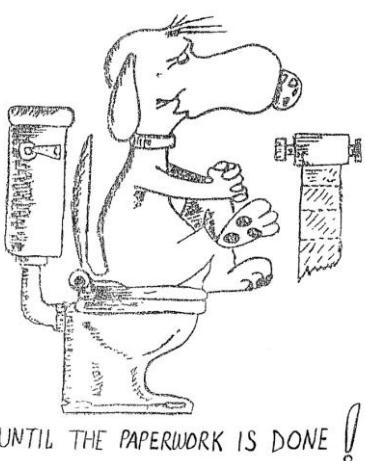
1. Return Duties & Requirements

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

72

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

73

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

74

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

75

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"

76

Liability for Failure to Execute And 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

77

SAFETY

- **Complacency** is 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.

78

39

SAFETY

PLAN AHEAD

- IDENTIFY the hazards or risks;
- PREDICT what could happen;
- DECIDE what actions you could take;
- EXECUTE the plan if you must.

79

Excellence is a conscious decision.

Edward W. Hood

Contact Information:

Thomas Sanders
Chief Deputy Constable
Tarrant County, Precinct 1
tlsanders@tarrantcountytexas.gov
817-884-1385

80

Citation Process – *Sample*

81

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.

82

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

83

84

Serving a Citation: Step 3

On June 1, 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

85

Serving a Citation: Step 4

- On June 5, 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.

86

What does your information sheet look like now?

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	5:00 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

87

Serving a Citation: Step 5

- On June 13, 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, 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, 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?

88

BLUE FALCON COUNTY, TEXAS
PRECINCT ONE
CURTIS HARRINGTON, CONSTABLE

INFORMATION COVERSHEET

Plaintiff: Adam Scott

Cause No. CV-2018-02508

Defendant: GPD-GC LLC 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: 1025 Lost Key Dr, Austin, TX 78735

EXECUTED BY: K. Hughes

DATE EXECUTED: 6/13/18

TIME EXECUTED: 11:00 AM

DATE RETURNED: 6/26/18

89

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.

90

Serving a Citation: Step 6

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?