

# **APPENDIX**

to memorandum to SCAC Rule 16-165a subcommittee  
September 27, 2011

A.	House Bill 962	1
B.	Form of citation and officer's return used in Tarrant County	4
C.	Rules 15-17, 99-108a, 119-124 (current version)	6
D.	Rules 99-108, 119-124 (proposed)	14
E.	Chapter 132 of the Civil Practice & Remedies Code and TEX.PENAL CODE §§ 37.02 & 37.03	20
F.	TEX.CIV.PRAC. & REM.CODE § 17.027	24

AN ACT

relating to rules regarding return of service.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 17, Civil Practice and Remedies Code, is amended by adding Section 17.030 to read as follows:

Sec. 17.030. RETURN OF SERVICE. (a) The supreme court shall adopt rules of civil procedure requiring a person who serves process to complete a return of service.

(b) The rules:

(1) must provide that the return of service:

(A) is not required to be endorsed or attached to the original process issued; and

(B) may be electronically filed; and

(2) may require that the following information be included in the return of service:

(A) the cause number and case name;

(B) the court in which the case has been filed;

(C) the date and time process was received for service;

(D) the person or entity served;

(E) the address served;

(F) the date of service;

(G) the manner of delivery of service;

1                   (H) a description of process served;  
2                   (I) the name of the person serving process; and  
3                   (J) if the process server is certified as a  
4 process server by the supreme court, the process server's  
5 identification number.

6           (c) A person certified by the supreme court as a process  
7 server or a person authorized outside of Texas to serve process  
8 shall sign the return of service under penalty of perjury. The  
9 return of service is not required to be verified.

10           (d) A person who knowingly or intentionally falsifies a  
11 return of service may be prosecuted for tampering with a  
12 governmental record as provided by Chapter 37, Penal Code.

13           SECTION 2. Section 17.065(b), Civil Practice and Remedies  
14 Code, is amended to read as follows:

15           (b) The return of service under this section [~~shall be~~  
16 ~~endorsed on or attached to the original process issued and~~] must:

17                   (1) state when it was served;  
18                   (2) state on whom it was served; and  
19                   (3) be signed under penalty of perjury [~~and sworn to~~  
20 by the party making the service [~~before a person authorized by law~~  
21 ~~to make an affidavit under his hand and seal~~].

22           SECTION 3. Section 17.030, Civil Practice and Remedies  
23 Code, as added by this Act, and Section 17.065, Civil Practice and  
24 Remedies Code, as amended by this Act, apply to all process served  
25 on or after January 1, 2012, without regard to whether the process  
26 was issued before, on, or after that date.

27           SECTION 4. This Act takes effect January 1, 2012.

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 962 was passed by the House on April 14, 2011, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 962 was passed by the Senate on May 19, 2011, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor

THE STATE OF TEXAS  
DISTRICT COURT, TARRANT COUNTY

CITATION

Cause No.

VS.

TO:

You said \_\_\_\_\_ are hereby commanded to appear by filing a written answer to the  
at or before 10 o'clock A.M. of the Monday next after the expiration of 20  
days after the date of service hereof before the \_\_\_\_\_ District Court  
401 W BELKNAP, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas  
said \_\_\_\_\_ being \_\_\_\_\_

Filed in said Court on \_\_\_\_\_ Against \_\_\_\_\_

For suit, said suit being numbered \_\_\_\_\_ the nature of which demand is as shown on said  
\_\_\_\_\_ a copy of which accompanies this citation.

Attorney for  
Address

Phone No.

201

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal  
of said Court, at office in the City of Fort Worth, this the \_\_\_\_\_

By \_\_\_\_\_ Deputy

NOTICE: 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 AM. 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.

Thomas A. Wilder, Tarrant County District Clerk  
401 W. Belknap  
Fort Worth, Texas 76196-0402

OFFICER'S RETURN

Received this Citation on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M, and executed at  
\_\_\_\_\_ within the county of \_\_\_\_\_, State of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M  
on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by delivering to the within named (Def.): \_\_\_\_\_  
defendant(s), a true copy of this Citation together with the accompanying copy of \_\_\_\_\_  
, having first endorsed on same the date of delivery.

Authorized Person/Constable/Sheriff: \_\_\_\_\_

County of \_\_\_\_\_ State of \_\_\_\_\_ By \_\_\_\_\_ Deputy

Fees \$ \_\_\_\_\_

(Must be verified if served outside the State of Texas)

State of \_\_\_\_\_ County of \_\_\_\_\_

Signed and sworn to by the said \_\_\_\_\_ before me this \_\_\_\_\_ day of \_\_\_\_\_  
to certify which witness my hand and seal of office

(Seal)

County of \_\_\_\_\_, State of \_\_\_\_\_

*CITATION*

---

Cause No

VS.

ISSUED

Thomas A. Wilder  
Tarrant County District Clerk  
401 W BELKNAP  
FORT WORTH TX 76196

By Deputy

---

Attorney for:  
Phone No.

*CIVIL LAW*



SERVICE FEES NOT COLLECTED  
BY TARRANT COUNTY DISTRICT CLERK

## **TEXAS RULES OF CIVIL PROCEDURE**

### **PART II- RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS**

#### **SECTION 1. GENERAL RULES**

##### **RULE 15. WRITS AND PROCESS**

The style of all writs and process shall be “The State of Texas;” and unless otherwise specially provided by law or these rules every such writ and process shall be directed to any sheriff or any constable within the State of Texas, shall be made returnable on the Monday next after expiration of twenty days from the date of service thereof, and shall be dated and attested by the clerk with the seal of the court impressed thereon; and the date of issuance shall be noted thereon.

##### **RULE 16. SHALL ENDORSE ALL PROCESS**

Every officer or authorized person shall endorse on all process and precepts coming to his hand the day and hour on which he received them, the manner in which he executed them, and the time and place the process was served and shall sign the returns officially.

##### **RULE 17. OFFICER TO EXECUTE PROCESS**

Except where otherwise expressly provided by law or these rules, the officer receiving any process to be executed shall not be entitled in any case to demand his fee for executing the same in advance of such execution, but his fee shall be taxed and collected as other costs in the case.

#### **SECTION 5. CITATION**

##### **RULE 99. ISSUANCE AND FORM OF CITATION**

- a. Issuance.** Upon the filing of the petition, the clerk, when requested, shall forthwith issue a citation and deliver the citation as directed by the requesting party. The party requesting citation shall be responsible for obtaining service of the citation and a copy of the petition. Upon request, separate or additional citations shall be issued by the clerk.
- b. Form.** The citation shall (1) be styled “The State of Texas,” (2) be signed by the clerk under seal of court, (3) contain name and location of the court, (4) show date of filing of the petition, (5) show date of issuance of citation, (6) show file number, (7) show names of parties, (8) be directed to the defendant, (9) show the name and address of attorney for plaintiff, otherwise the address of plaintiff, (10) contain the time within which these rules

require the defendant to file a written answer with the clerk who issued citation, (11) contain address of the clerk, and (12) shall notify the defendant that in case of failure of defendant to file and answer, judgment by default may be rendered for the relief demanded in the petition. The citation shall direct the defendant to file a written answer to the plaintiffs petition on or before 10:00 a.m. on the Monday next after the expiration of twenty days after the date of service thereof. The requirement of subsections 10 and 12 of this section shall be in the form set forth in section c of this rule.

- c. **Notice.** The citation shall include the following notice to the defendant: "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."
- d. **Copies.** The party filing any pleading upon which citation is to be issued and served shall furnish the clerk with a sufficient number of copies thereof for use in serving the parties to be served, and when copies are so furnished the clerk shall make no charge for the copies.

**[RULE 100. Repealed effective January 1, 1988]**

**[RULE 101. Repealed effective January 1, 1988]**

**[RULE 102. Repealed effective January 1, 1988]**

### **RULE 103. WHO MAY SERVE**

Process—including citation and other notices, writs, orders, and other papers issued by the court—may be served anywhere by (1) any sheriff or constable or other person authorized by law, (2) any person authorized by law or by written order of the court who is not less than eighteen years of age, or (3) any person certified under order of the Supreme Court. Service by registered or certified mail and citation by publication must, if requested, be made by the clerk of the court in which the case is pending. But no person who is a party to or interested in the outcome of a suit may serve any process in that suit, and, unless otherwise authorized by a written court order, only a sheriff or constable may serve a citation in an action of forcible entry and detainer, a writ that requires the actual taking of possession of a person, property or thing, or process requiring that an enforcement action be physically enforced by the person delivering the process. The order authorizing a person to serve process may be made without written motion and no fee may be imposed for issuance of such order.

**[RULE 104. Repealed effective January 1, 1988]**



### **RULE 105. DUTY OF OFFICER OR PERSON RECEIVING**

The officer or authorized person to whom process is delivered shall endorse thereon the day and hour on which he received it, and shall execute and return the same without delay.

### **RULE 106. METHOD OF SERVICE**

- (a) Unless the citation or an order of the court otherwise directs, the citation shall be served by any person authorized by Rule 103 by
  - (1) delivering to the defendant, in person, a true copy of the citation with the date of delivery endorsed thereon with a copy of the petition attached thereto, or
  - (2) mailing to the defendant by registered or certified mail, return receipt requested, a true copy of the citation with a copy of the petition attached thereto.
- (b) Upon motion supported by affidavit stating the location of the defendant's usual place of business or usual place of abode or other place where the defendant can probably be found and stating specifically the facts showing that service has been attempted under either (a)(1) or (a)(2) at the location named in such affidavit but has not been successful, the court may authorize service
  - (1) by leaving a true copy of the citation, with a copy of the petition attached, with anyone over sixteen years of age at the location specified in such affidavit, or
  - (2) in any other manner that the affidavit or other evidence before the court shows will be reasonably effective to give the defendant notice of the suit.

### **RULE 107. RETURN OF SERVICE**

The return of the officer or authorized person executing the citation shall be endorsed on or attached to the same; it shall state when the citation was served and the manner of service and be signed by the officer officially or by the authorized person. The return of citation by an authorized person shall be verified. When the citation was served by registered or certified mail as authorized by Rule 106, the return by the officer or authorized person must also contain the return receipt with the addressee's signature. When the officer or authorized person has not served the citation, the return shall show the diligence used by the officer or authorized person to execute the same and the cause of failure to execute it, and where the defendant is to be found, if he can ascertain.

Where citation is executed by an alternative method as authorized by Rule 106, proof of service shall be made in the manner ordered by the court.

No default judgment shall be granted in any cause until the citation, or process under Rules 108 or 108a, with proof of service as provided by this rule or by Rules 108 or 108a, or as ordered by the court in the event citation is executed under Rule 106, shall have been on file with the clerk of the court ten days, exclusive of the day of filing and the day of judgment.

#### **RULE 108. DEFENDANT WITHOUT STATE**

Where the defendant is absent from the State, or is a nonresident of the State, the form of notice to such defendant of the institution of the suit shall be the same as prescribed for citation to a resident defendant; and such notice may be served by any disinterested person competent to make oath of the fact in the same manner as provided in Rule 106 hereof. The return of service in such cases shall be endorsed on or attached to the original notice, and shall be in the form provided in Rule 107, and be signed and sworn to by the party making such service before some officer authorized by the laws of this State to take affidavits, under the hand and official seal of such officer. A defendant served with such notice shall be required to appear and answer in the same manner and time and under the same penalties as if he had been personally served with a citation within this State to the full extent that he may be required to appear and answer under the Constitution of the United States in an action either in rem or in personam.

#### **RULE 108a. SERVICE OF PROCESS IN FOREIGN COUNTRIES**

- (1) **Manner.** Service of process may be effected upon a party in a foreign country if service of the citation and petition is made:
- (a) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or
  - (b) as directed by the foreign authority in response to a letter rogatory or a letter of request; or
  - (c) in the manner provided by Rule 106; or
  - (d) pursuant to the terms and provisions of any applicable treaty or convention; or
  - (e) by diplomatic or consular officials when authorized by the United States Department of State; or
  - (f) by any other means directed by the court that is not prohibited by the law of the country where service is to be made.

The method for service of process in a foreign country must be reasonably calculated, under all of the circumstances, to give actual notice of the proceedings to the defendant in time to answer and defend. A defendant served with process under this rule shall be

required to appear and answer in the same manner and time and under the same penalties as if he had been personally served with citation within this state to the full extent that he may be required to appear and answer under the Constitution of the United States or under any applicable convention or treaty in an action either in rem or in personam.

- (2) **Return.** Proof of service may be made as prescribed by the law of the foreign country, by order of the court, by Rule 107, or by a method provided in any applicable treaty or convention.

interest, penalties, and costs allowed by law thereon, may, upon request therefor, be recovered herein without further citation or notice to any parties herein, and all said parties shall take notice of and plead and answer to all claims and pleadings now on file and which may hereafter be filed in this cause by all other parties hereto, and by all of those taxing units above named, who may intervene herein and set up their respective tax claims against said property.

If this citation is not served within 90 days after the date of its issuance, it shall be returned unserved.

The officer executing this return shall promptly serve the same according to the requirements of law and the mandates hereof and make due return as the law directs.

Issued and given under my hand and seal of said Court at \_\_\_\_\_, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_\_\_\_

\_\_\_\_\_  
Clerk of the District Court of  
\_\_\_\_\_ County, Texas.  
By \_\_\_\_\_, Deputy.

## **RULE 119. ACCEPTANCE OF SERVICE**

The defendant may accept service of process, or waive the issuance or service thereof by a written memorandum signed by him, or by his duly authorized agent or attorney, after suit is brought, sworn to before a proper officer other than an attorney in the case, and filed among the papers of the cause, and such waiver or acceptance shall have the same force and effect as if the citation had been issued and served as provided by law. The party signing such memorandum shall be delivered a copy of plaintiffs petition, and the receipt of the same shall be acknowledged in such memorandum. In every divorce action such memorandum shall also include the defendant's mailing address.

## **RULE 119a. COPY OF DECREE**

The district clerk shall forthwith mail a certified copy of the final divorce decree or order of dismissal to the party signing a memorandum waiving issuance or service of process. Such divorce decree or order of dismissal shall be mailed to the signer of the memorandum at the address stated in such memorandum or to the office of his attorney of record.

## **RULE 120. ENTERING APPEARANCE**

The defendant may, in person, or by attorney, or by his duly authorized agent, enter an appearance in open court. Such appearance shall be noted by the judge upon his docket and entered in the minutes, and shall have the same force and effect as if the citation had been duly issued and served as provided by law.

## **RULE 120a. SPECIAL APPEARANCE**

1. Notwithstanding the provisions of Rules 121, 122 and 123, a special appearance may be made by any party either in person or by attorney for the purpose of objecting to the jurisdiction of the court over the person or property of the defendant on the ground that such party or property is not amenable to process issued by the courts of this State. A special appearance may be made as to an entire proceeding or as to any severable claim involved therein. Such special appearance shall be made by sworn motion filed prior to motion to transfer venue or any other plea, pleading or motion; provided however, that a motion to transfer venue and any other plea, pleading, or motion may be contained in the same instrument or filed subsequent thereto without waiver of such special appearance; and may be amended to cure defects. The issuance of process for witnesses, the taking of depositions, the serving of requests for admissions, and the use of discovery processes, shall not constitute a waiver of such special appearance. Every appearance, prior to judgment, not in compliance with this rule is a general appearance.
2. Any motion to challenge the jurisdiction provided for herein shall be heard and

determined before a motion to transfer venue or any other plea or pleading may be heard. No determination of any issue of fact in connection with the objection to jurisdiction is a determination of the merits of the case or any aspect thereof

3. The court shall determine the special appearance on the basis of the pleadings, any stipulations made by and between the parties, such affidavits and attachments as may be filed by the parties, the results of discovery processes, and any oral testimony. The affidavits, if any, shall be served at least seven days before the hearing, shall be made on personal knowledge, shall set forth specific facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify.

Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

Should it appear to the satisfaction of the court at any time that any of such affidavits are presented in violation of Rule 13, the court shall impose sanctions in accordance with that rule.

4. If the court sustains the objection to jurisdiction, an appropriate order shall be entered. If the objection to jurisdiction is overruled, the objecting party may thereafter appear generally for any purpose. Any such special appearance or such general appearance shall not be deemed a waiver of the objection to jurisdiction when the objecting party or subject matter is not amenable to process issued by the courts of this State.

#### **RULE 121. ANSWER IS APPEARANCE**

An answer shall constitute an appearance of the defendant so as to dispense with the necessity for the issuance or service of citation upon him.

#### **RULE 122. CONSTRUCTIVE APPEARANCE**

If the citation or service thereof is quashed on motion of the defendant, such defendant shall be deemed to have entered his appearance at ten o'clock a.m. on the Monday next after the expiration of twenty (20) days after the day on which the citation or service is quashed, and such defendant shall be deemed to have been duly served so as to require him to appear and answer at that time, and if he fails to do so, judgment by default may be rendered against him.

#### **RULE 123. REVERSAL OF JUDGMENT**

Where the judgment is reversed on appeal or writ of error for the want of service, or because of defective service of process, no new citation shall be issued or served, but the defendant shall be

presumed to have entered his appearance to the term of the court at which the mandate shall be filed.

#### **RULE 124. NO JUDGMENT WITHOUT SERVICE**

In no case shall judgment be rendered against any defendant unless upon service, or acceptance or waiver of process, or upon an appearance by the defendant, as prescribed in these rules, except where otherwise expressly provided by law or these rules.

When a party asserts a counterclaim or a cross-claim against another party who has entered an appearance, the claim may be served in any manner prescribed for service of citation or as provided in Rule 21(a).

## RULE 99. ISSUANCE AND FORM OF PROCESS

- (a) **Issuance.** The clerk, when requested or ordered by the court, shall forthwith issue process. The clerk shall deliver the process as directed by the requesting party or as ordered by the court. Unless otherwise ordered by the court, the requesting party shall be responsible for obtaining service of process. The process shall be styled "The State of Texas" and shall be dated and signed by the clerk with the seal of the court impressed thereon.
- (b) **Form of citation.** The citation shall (1) be styled "The State of Texas," (2) be signed by the clerk under seal of court, (3) contain name and location of the court, (4) show date of filing of the petition, (5) show date of issuance of citation, (6) show file number, (7) show names of parties, (8) be directed to the defendant, (9) show the name and address of attorney for plaintiff, otherwise the address of plaintiff, (10) contain the time within which these rules require the defendant to file a written answer with the clerk who issued citation, (11) contain address of the clerk, and (12) shall notify the defendant that in case of failure of defendant to file and answer, judgment by default may be rendered for the relief demanded in the petition. The citation shall direct the defendant to file a written answer to the plaintiff's petition on or before 10:00 a.m. on the Monday next after the expiration of twenty days after the date of service thereof. The requirement of subsections 10 and 12 of this section shall be in the form set forth in section c of this rule.
- (c) **Notice in citation.** The citation shall include the following notice to the defendant: "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."
- (d) **Copies.** The party filing any pleading upon which process is to be issued and served shall furnish the clerk with a sufficient number of copies thereof for use in serving the parties to be served, and when copies are so furnished the clerk shall make no charge for the copies.

## RULE 100. DEFINITION

As used in this section, “process” includes citations, notices, writs, precepts, orders, and other papers issued by the court or issued by the clerk.

## RULE 103. WHO MAY SERVE PROCESS

Process may be served anywhere by (1) any sheriff or constable or other person authorized by these rules or by law, (2) any person authorized by written order of the court who is not less than eighteen years of age, or (3) any person certified under order of the Supreme Court. But no person who is a party to or interested in the outcome of a suit may serve any process in that suit, and, unless otherwise authorized by a written court order, only a sheriff or constable may serve a process in an action of forcible entry and detainer, a writ that requires the actual taking of possession of a person, property or thing, or a process requiring that an enforcement action be physically enforced by the person serving the process. An order authorizing a person to serve process may be made without written motion and no fee may be imposed for issuance of such an order.

## RULE 105. DUTY OF PERSON RECEIVING PROCESS

- (a) The person who receives a process shall (i) serve and/or execute it without delay and (ii) prepare and file a return in accordance with Rule 107.
- (b) Except where expressly provided by law or these rules, a sheriff or constable receiving any process shall not demand a fee for executing the process in advance of such execution, but such fee shall be taxed and collected as other costs in the case.

## RULE 106. METHOD OF SERVICE

- (a) Unless the process or an order of the court otherwise directs, the process shall be served by any person authorized by Rule 103 by
  - (1) by delivering to the person to be served, in person, a true copy of the process with the date and time of delivery endorsed thereon



- (2) by mailing a true copy of the process to the person to be served by registered or certified mail, return receipt requested, or
  - (3) as otherwise authorized by these rules or by law.
- (b) Upon motion supported by affidavit stating the location of the usual place of business or usual place of abode of the person to be served or other place where said person can probably be found and stating specifically the facts showing that service has been attempted under (a)(1) or (a)(2) or (a)(3) at the location named in such affidavit but has not been successful, the court may authorize service
  - (1) by leaving a true copy of the process, with anyone over sixteen years of age at the location specified in such affidavit, or
  - (2) in any other manner that the affidavit or other evidence before the court shows will be reasonably effective to give notice.
- (c) A true copy of the petition shall be attached to the citation.

#### RULE 107. RETURN OF PROCESS

- (a) The return may, but is not required to be, endorsed on or attached to the process.
- (b) The return, together with any document to which it is attached, shall include the following information:
  - (1) the case number and case name;
  - (2) the court in which the case is filed;
  - (3) a description of the process;
  - (4) the date and time when the process was received;

- (5) the name of the person who received the process and his or her identification number, if any; and
  - (6) any other information required by law.
- (c) If the process is served or executed, the return, together with any document to which it is attached, shall also include the following information:
  - (1) the date and time when the process was served or executed;
  - (2) the person or entity served;
  - (3) the address where the process was served or executed; and
  - (4) the manner in which the process was served or executed.
- (d) If the process is not served or executed, the return, together with any document to which it is attached, shall show (i) the diligence used to serve or execute the process, (ii) the cause of the failure to serve or execute the process, and (iii) the place where the person to be served can be found, if it can be ascertained.
- (e) If a process is served by registered or certified mail as authorized by Rule 106, the return receipt with the addressee's signature must be attached to the return.
- (f) The person who serves or executes, or attempts to serve or execute, the process shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff or constable, the return shall contain a statement that it is signed under penalty of perjury.
- (g) The person who signs the return shall file the return with the court. The return and any document to which it is attached may be electronically filed, if the court permits electronic filing; but if it is electronically filed, the person who signs the return shall retain the original copy for six months.

- (h) Where process is served or executed by an alternative method, as authorized by Rule 106, proof of service or execution may be made in the manner ordered by the court.
- (i) No default judgment shall be granted in any cause until the citation, or process under Rules 108 or 108a with proof of service as provided by this rule or by rules 108 or 108a, or as ordered by the court in the event citation is executed under Rule 106, shall have been on file with the clerk of the court ten days, exclusive of the day of filing and the day of judgment.

#### RULE 108. SERVICE OF PROCESS IN ANOTHER STATE

Where the defendant is absent from the State, or is a nonresident of the State, the form of notice to such defendant of the institution of the suit shall be the same as prescribed for citation to a resident defendant; and such notice may be served by any disinterested person, who is not less than eighteen years of age, in the same manner as provided in Rule 106 hereof. The return of service in such cases shall be prepared and filed in accordance with Rule 107. A defendant served with such notice shall be required to appear and answer in the same manner and time and under the same penalties as if he had been personally served with a citation within this State to the full extent that he may be required to appear and answer under the Constitution of the United States in an action either in rem or in personam.

#### RULE 119. ACCEPTANCE OR WAIVER OF SERVICE

The defendant may accept service of citation, or waive the issuance or service of citation, by a written memorandum signed by him, or by his duly authorized agent or attorney, after suit is brought. The memorandum must be sworn to before a proper officer other than an attorney in the case and filed among the papers of the case; and such waiver or acceptance shall have the same force and effect as if the citation had been issued and served as provided by law. A copy of the petition shall be delivered to any party who accepts service of citation or who waives the issuance of citation under this rule. The memorandum shall also state that the party has received a copy of the petition. In every divorce action such memorandum shall also include the defendant's mailing address.

#### RULE 119a. COPY OF DECREE OF DIVORCE

The district clerk shall forthwith mail a certified copy of the final divorce decree or order of dismissal to the party signing a memorandum waiving issuance or service of citation. Such divorce decree or order of dismissal shall be mailed to the signer of the memorandum at the address stated in such memorandum or to the office of his attorney of record.

#### RULE 123. REVERSAL OF JUDGMENT

Where the judgment is reversed on appeal for the want of service, or because of defective service of citation, no new citation shall be issued or served, but the defendant shall be presumed to have entered his appearance to the term of the court at which the mandate shall be filed.

#### RULE 124. NO JUDGMENT WITHOUT SERVICE

Judgment shall not be rendered against any defendant unless upon service, or acceptance or waiver of citation, or upon an appearance by the defendant, as prescribed in these rules, except where otherwise expressly provided by law or these rules.

When a party asserts a counterclaim or a cross-claim against another party who has entered an appearance, notice of the claim may be served in any manner prescribed for service of citation or as provided in Rule 21(a).

**§ 132.001. Unsworn Declaration**

form:

“My name is \_\_\_\_\_ my  
 (First) (Middle) (Last)  
 date of birth is \_\_\_\_\_, and my inmate  
 identifying number, if any, is \_\_\_\_\_. I  
 am presently incarcerated in \_\_\_\_\_  
 (Corrections unit name)  
 in \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_. I  
 (City) (County) (State) (Zip Code)  
 declare under penalty of perjury that the foregoing is true and correct.  
 Executed on the \_\_\_\_\_ day of \_\_\_\_\_,  
 (Month) (Year)  
 \_\_\_\_\_  
 Declarant”

§§ 132.002, 132.003. Repealed by Acts 2011, 82nd Leg., ch. 847 (H.B. 3674) § 2, eff. Sept. 1, 2011

§§ 132.002, 132.003. Repealed by Acts 2011, 82nd Leg., ch. 847 (H.B. 3674) § 2, eff. Sept. 1, 2011

END OF DOCUMENT

V.T.C.A., Penal Code § 37.02

**C****Effective: [See Text Amendments]**

Vernon's Texas Statutes and Codes Annotated Currentness

Penal Code (Refs &amp; Annos)

▣ Title 8. Offenses Against Public Administration

▣ Chapter 37. Perjury and Other Falsification (Refs &amp; Annos)

**→ § 37.02. Perjury**

(a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning:

(1) he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; or

(2) he makes a false unsworn declaration under Chapter 132, Civil Practice and Remedies Code.

(b) An offense under this section is a Class A misdemeanor.

**CREDIT(S)**

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

**HISTORICAL AND STATUTORY NOTES**

2011 Electronic Pocket Part Update.

Acts 1993, 73rd Leg., ch. 900, in subsec. (a), in subd. (1), following "previously made and", deleted a former subd. (2) designation, combined former subds. (1) and (2), and added a new subd. (2).

2011 Main Volume

**Prior Laws:**

Rev.P.C.1879, arts. 188, 189, 194, 196.

Rev.P.C.1895, arts. 201, 202, 207, 209.

Rev.P.C.1911, arts. 304, 305, 310, 312.

Vernon's Ann.P.C. (1925) arts. 302, 303, 308, 310.

V. T. C. A., Penal Code § 37.02, TX PENAL § 37.02

Current through the end of the 2011 Regular Session and  
First Called Session of the 82nd Legislature

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

V.T.C.A., Penal Code § 37.03

**C****Effective: [See Text Amendments]**

Vernon's Texas Statutes and Codes Annotated Currentness

Penal Code (Refs &amp; Annos)

▣ Title 8. Offenses Against Public Administration

▣ Chapter 37. Perjury and Other Falsification (Refs &amp; Annos)

**→ § 37.03. Aggravated Perjury**

(a) A person commits an offense if he commits perjury as defined in Section 37.02, and the false statement:

(1) is made during or in connection with an official proceeding; and

(2) is material.

(b) An offense under this section is a felony of the third degree.

CREDIT(S).

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

**HISTORICAL AND STATUTORY NOTES**

2011 Electronic Pocket Part Update.

Acts 1993, 73rd Leg., ch. 900, in subsec. (a), in the introductory paragraph, following "37.02", deleted "of this code".

2011 Main Volume

**Prior Laws:**

Rev.P.C.1879, arts. 188, 189, 192 to 194, 479 to 482.

Rev.P.C.1895, arts. 201, 202, 205 to 207, 580 to 583.

Rev.P.C.1911, arts. 304, 305, 308 to 310, 1000 to 1003.

Acts 1961, 57th Leg., p. 654, ch. 303, §§ 22, 23.

Vernon's Ann.P.C. (1925) arts. 302, 303, 306 to 308, 1118 to 1121.

V. T. C. A., Penal Code § 37.03, TX PENAL § 37.03

Current through the end of the 2011 Regular Session and  
First Called Session of the 82nd Legislature

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.



V.T.C.A., Civil Practice & Remedies Code § 17.027

**C**

**Effective: [See Text Amendments]**

Vernon's Texas Statutes and Codes Annotated Currentness

Civil Practice and Remedies Code (Refs & Annos)

Title 2. Trial, Judgment, and Appeal

Subtitle B. Trial Matters

▣ Chapter 17. Parties; Citation; Long-Arm Jurisdiction

▣ Subchapter B. Citation Generally

**→ § 17.027. Preparation and Service**

- (a) The plaintiff or his attorney may prepare the appropriate citation for the defendant.
- (b) The citation must be in the form prescribed by the Texas Rules of Civil Procedure.
- (c) The citation shall be served in the manner prescribed by law.
- (d) The plaintiff or his attorney shall comply with the applicable Texas Rules of Civil Procedure governing preparation and issuance of citation.
- (e) Repealed by Acts 1997, 75th Leg., ch. 976, § 5, eff. Sept. 1, 1997.

CREDIT(S)

Added by Acts 1987, 70th Leg., ch. 663, § 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 976, § 5, eff. Sept. 1, 1997.

<As amended through the 82nd Legislature, Regular Session (2011)>

**HISTORICAL AND STATUTORY NOTES**

2008 Main Volume

Acts 1997, 75th Leg., ch. 976, repealed subsec. (e).

V. T. C. A., Civil Practice & Remedies Code § 17.027, TX CIV PRAC & REM § 17.027

Current through the end of the 2011 Regular Session and  
First Called Session of the 82nd Legislature

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT