

## What is Service of Citation?

When you file your Petition and civil case information sheet at the clerk's office, the clerk may ask if you want to have citation issued. This is sometimes called "service of citation" or "service of process."

1) **What is "service of citation"?** It is legal notice to the other side that you have filed your case. It is not enough to tell the person on the other side that you have filed the case. You must follow the Texas Rules of Civil Procedure and give legal notice. You must also show the court that you have given legal notice.

2) **Waiver of citation.** You do not have to give legal notice if the person on the other side agrees to sign a form called a Waiver of Citation in front of a notary. This form says that the person has gotten a copy of the filed petition and is giving up the right to get official notice by issuance and service of citation. ***The form must not be signed until after the petition is filed at the clerk's office.*** You can find a form for Waiver of Citation on this website.

3) **Issuance of citation.** Another way to give legal notice is to have the clerk issue a citation. When you file the petition, the clerk will ask if you want to have citation issued. The citation gives information such as the case number, name of the court, names and addresses of the petitioner and respondent, date the petition was filed, and the time period the respondent has to answer the lawsuit. The citation also warns that, if the respondent does not answer within a certain time, the respondent may lose the case. There is a small fee for issuing the citation unless you have obtained a waiver of the fees based on your Affidavit of Indigency.

4) **Delivery of citation.** Unless you requested service when you requested the citation, you need to arrange for an authorized person to deliver the citation and petition to the respondent. There is also fee for this service, unless you obtained a waiver of the fees based on your Affidavit of Indigency. If you request it, a person called a "process server" will give the citation and a copy of the petition to the respondent. The process server will usually be a sheriff's deputy or constable unless you hire your own private process server. No one in your family may serve the citation on the respondent. When the person you have sued receives the citation and a copy of the filed petition from someone authorized to deliver it, then that person has gotten legal notice or, as we usually say, that person "has been served."

5) **Other ways to give legal notice.** There are other ways to give legal notice by serving a citation than having a process service deliver it personally.

- **Service by mail.** You can ask the clerk to mail the citation and petition to the person on the other side by registered or certified mail, return receipt requested. The person on the other side must sign the return receipt. If it is not signed by that person and returned, or if another person signs it, then there is no legal notice. If the person on the other side is an inmate, you may not use service by mail. You have to use personal service by a process server.
- **Service by publication.** If you do not know where the person on the other side is, you may be able to serve them with notice of the suit by publishing legal notice in a newspaper. You will have to prove that you have tried hard to find the other person. The judge has to appoint a

lawyer to represent the other side, and you may have to pay the lawyer's fees. The lawyer will look hard for the person on the other side and show the judge that the person cannot be found. If your case is a divorce case and you cannot find your spouse, and if you do not have any children or much property, you may be able to use service by posting at the courthouse. To get information and forms for service by publication and service by posting, click the Giving Legal Notice button on this website. Be aware that service by publication is expensive.

6) **Return of citation.** When the person on the other side has been served by the process server, the process server will complete a Return of Citation. That lets the judge know how and when the person on the other side was served. The Return of Citation must be filed in the clerk's office with the rest of the papers in the case file.