

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9009

ORDER AMENDING TEXAS RULES OF CIVIL PROCEDURE 116 AND 117

ORDERED that:

1. Senate Bill 891, enacted by the 86th Legislature, requires the creation of a website for publishing citation and directs the Court to establish procedures for the website. Act of May 27, 2019, 86th Leg., R.S., ch. 606, § 9.03 (S.B. 891, codified at TEX. GOV'T CODE § 72.034).
2. The Court approves the following amendments to Rules 116 and 117 of the Texas Rules of Civil Procedure. Rules 116 and 117 have been completely restructured and rewritten. Therefore, this order includes only a clean version of those rules as amended.
3. The amendments take effect June 1, 2020.
4. The amendments may be changed before June 1, 2020 in response to public comments. Written comments should be sent to [rulescomments@txcourts.gov](mailto:rulescomments@txcourts.gov). The Court requests that comments be sent by May 1, 2020.
5. The Clerk is directed to:
  - a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the *Texas Register*.

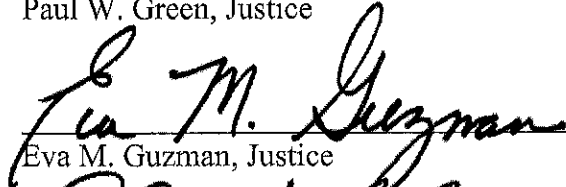
Dated: January 14, 2020



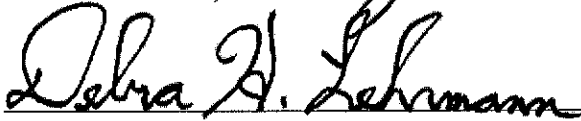
Nathan L. Hecht, Chief Justice



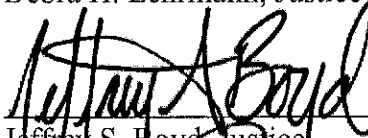
Paul W. Green, Justice



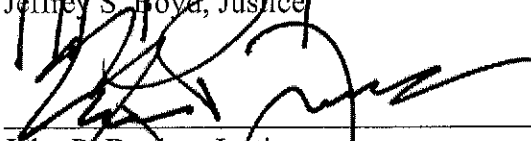
Eva M. Guzman, Justice



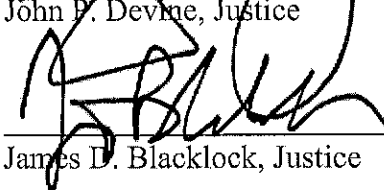
Debra H. Lehrmann, Justice



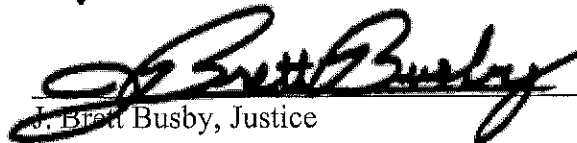
Jeffrey S. Boyd, Justice



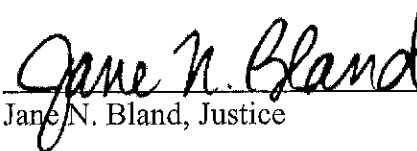
John P. Devine, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice

## **RULE 116. SERVICE OF CITATION BY PUBLICATION**

- (a) *Public Information Internet Website Defined.* "Public Information Internet Website" means the website developed and maintained under section 72.034 of the Government Code.
- (b) *Where to Publish.*
  - (1) Generally. Except as otherwise provided in (2), the citation must be served by publication in a newspaper under (c) and on the Public Information Internet Website under (d).
  - (2) When Newspaper Publication Not Required. The citation need not be published in a newspaper if:
    - (A) the party requesting citation files a Statement of Inability to Afford Payment of Court Costs under Rule 145;
    - (B) the total cost of the required publication exceeds \$200 each week or an amount set by the Supreme Court, whichever is greater; or
    - (C) the county in which the publication is required does not have any newspaper published, printed, or generally circulated in the county.
- (c) *Newspaper Publication.*
  - (1) Who Must Serve. The citation must be served by any sheriff or constable or by the clerk of the court in which the case is pending.
  - (2) Time for Publication. The citation must be published once each week for 4 consecutive weeks, and the first publication must be at least 28 days before the return is filed.
  - (3) Suits Not Involving Land Title or Real Estate Partition. In all suits that do not involve the title to land or the partition of real estate, the citation must be published in a newspaper in the county where the suit is pending.
  - (4) Suits Involving Land Title or Real Estate Partition. In all suits that involve the title to land or partition of real estate, the citation must be published in a newspaper in the county where the land, or a portion thereof, is situated.

(d) *Public Information Internet Website Publication.*

- (1) Who Must Serve. The citation must be served by the clerk of the court in which the case is pending.
- (2) Time for Publication. The citation must be published for at least 28 days before the return is filed.
- (3) Other Guidelines. The citation must be published in accordance with any other guidelines established by the Office of Court Administration.

Comment to 2020 change: Rule 116 is amended to implement section 72.034(d) of the Government Code.

**RULE 117. RETURN OF CITATION BY PUBLICATION**

- (a) *Return of Citation by Newspaper Publication.* If the citation was served by newspaper publication, the return must state how the citation was published, specify the dates of publication, be signed by the officer who served the citation, and be accompanied by an image of the publication.
  
- (b) *Return of Citation by Public Information Internet Website Publication.* If the citation was served by publication on the Public Information Internet Website, the return must specify the dates of publication and be generated by the Office of Court Administration.

**IN THE SUPREME COURT OF TEXAS**

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Misc. Docket No. 20-9068

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**ORDER DELAYING EFFECTIVE DATE OF AMENDMENTS TO  
TEXAS RULES OF CIVIL PROCEDURE 116 AND 117  
AND WEBSITE FOR SERVICE OF PROCESS**

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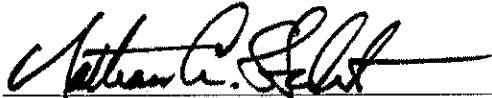
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**ORDERED** that:

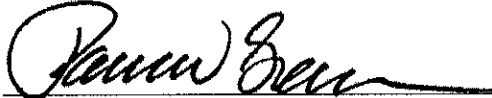
1. Senate Bill 891, enacted by 86<sup>th</sup> Legislature, requires the Office of Court Administration to create a website for publishing citation by June 1, 2020, and directs the Court to establish procedures for the website by June 1, 2020. Act of May 27, 2019, 86<sup>th</sup> Leg., R.S., ch. 606 (SB 891).
2. On January 14, 2020, in Misc. Dkt. No. 20-9009, the Court preliminary approved amendments to Rules 116 and 117 of the Texas Rules of Civil Procedure. The order made the amendments effective on June 1, 2020, after the expiration of a public-comment period.
3. The state of disaster in Texas due to the COVID-19 pandemic requires that the effective date of the website and rules amendments be extended to July 1, 2020.
4. Any Texas statute requiring or permitting citation by publication on the website or requiring the Office of Court Administration to generate a return of citation is suspended until July 1, 2020.
5. The Clerk of the Supreme Court is directed to:
  - a. post a copy of this Order on [www.txcourts.gov](http://www.txcourts.gov);
  - b. file a copy of this Order with the Secretary of State; and
  - c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

6. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order.

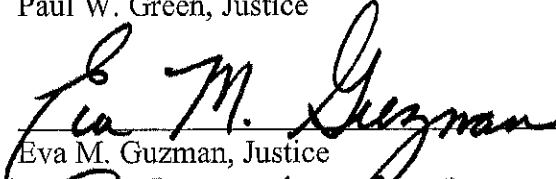
Dated: May 26, 2020



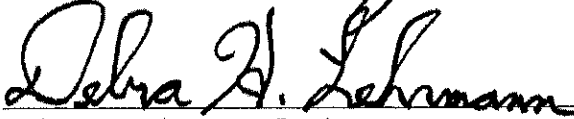
Nathan L. Hecht, Chief Justice



Paul W. Green, Justice



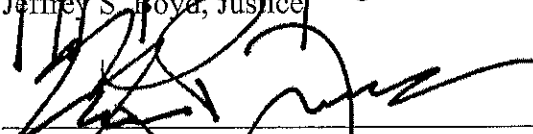
Eva M. Guzman, Justice



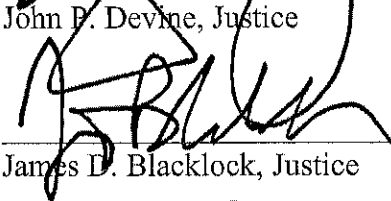
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



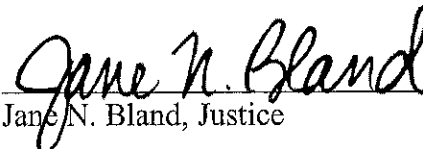
John P. Devine, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice



IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 20-9081

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FINAL APPROVAL OF AMENDMENTS TO  
TEXAS RULES OF CIVIL PROCEDURE 116 AND 117

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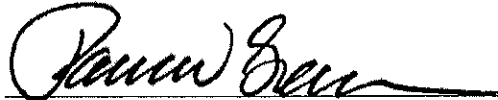
**ORDERED** that:

1. On January 14, 2020, in Misc. Dkt. No. 20-9009, the Court preliminarily approved amendments to Rules 116 and 117 of the Texas Rules of Civil Procedure to comply with Act of May 27, 2019, 86th Leg., R.S., ch. 606 (SB 891). The order made the amendments effective on June 1, 2020, after the expiration of a public-comment period.
2. On May 26, 2020, in Misc. Dkt. No. 20-9068, the effective date of the rules was extended to July 1, 2020, in response to the state of disaster in Texas due to the COVID-19 pandemic.
3. The Court has reviewed all public comments received, and no additional changes have been made to the rules. This order gives final approval to the amendments set forth in Misc. Dkt. No. 20-9009.
4. The public may view the website for service of process at: <https://www.txcourts.gov/judicial-data/citation-by-publication/>.
5. The Clerk of the Supreme Court is directed to:
  - a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the *Texas Register*.

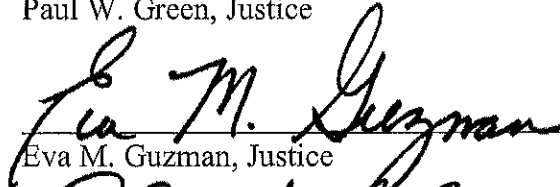
Dated: June 30, 2020



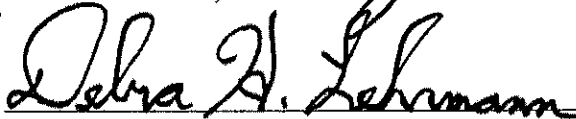
Nathan L. Hecht, Chief Justice



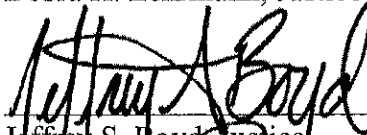
Paul W. Green, Justice



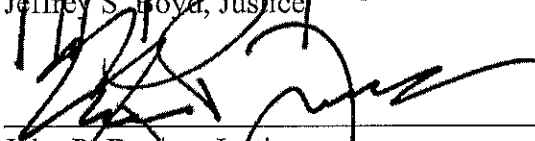
Eva M. Guzman, Justice



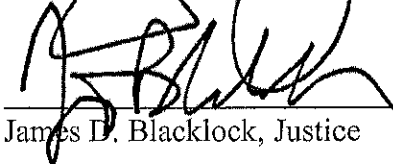
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



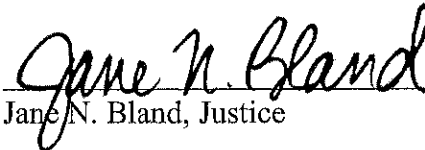
John P. Devine, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9103

ORDER AMENDING TEXAS RULES OF CIVIL PROCEDURE 106 AND 108a

**ORDERED** that:

1. In accordance with the Act of May 27, 2019, 86th Leg., R.S., ch. 606 (SB 891), the Supreme Court approves the following amendments to Texas Rules of Civil Procedure 106 and 108a.
2. The amendments take effect December 31, 2020.
3. The amendments may be changed before December 31, 2020, in response to public comments. Written comments should be sent to [rulescomments@txcourts.gov](mailto:rulescomments@txcourts.gov). The Court requests that comments be sent by December 1, 2020.
4. The Clerk is directed to:
  - a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the *Texas Register*.

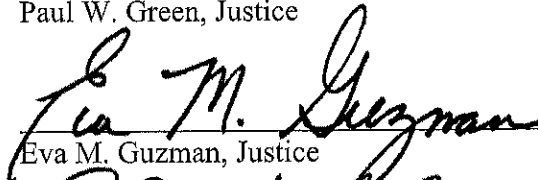
Dated: August 21, 2020



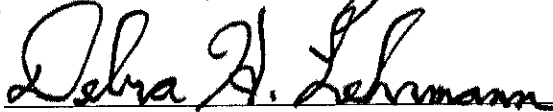
Nathan L. Hecht, Chief Justice



Paul W. Green, Justice



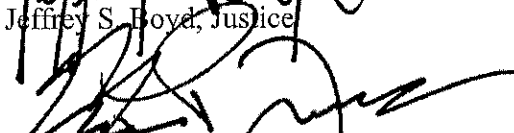
Eva M. Guzman, Justice



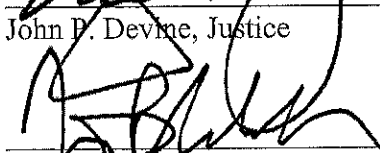
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



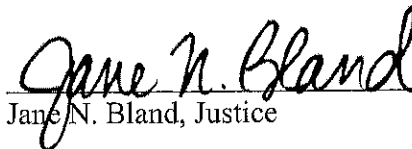
John P. Devine, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice

## RULE 106. METHOD OF SERVICE

- (a) Unless the citation or ~~an~~a court order of the court otherwise directs, the citation shall ~~be~~must be served by ~~any person authorized by Rule 103~~ by:
- (1) delivering to the defendant, in person, a ~~true~~copy of the citation, ~~with~~showing the ~~delivery date~~of delivery ~~endorsed thereon with a copy~~and 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~~and of the petition attached thereto.
- (b) Upon motion supported by ~~affidavit stating a statement~~sworn to before a notary or made under penalty of perjury ~~listing the any 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~~the statement but has not been successful, the court may authorize service:
- (1) by leaving a ~~true~~copy of the citation, ~~with a copy~~and of the petition attached, with anyone ~~over~~older than sixteen years of age at the location specified in ~~such affidavit~~the statement; or
  - (2) in any other manner, including electronically by social media, email, or other technology, that the ~~affidavit~~statement or other evidence before the court shows will be reasonably effective to give the defendant notice of the suit.

Comment to 2020 Change: Rule 106 is revised in response to section 17.033 of the Civil Practice and Remedies Code, which calls for rules to provide for substituted service of citation by social media. Amended Rule 106(b)(2) clarifies that a court may, in proper circumstances, permit service of citation electronically by social media, email, or other technology. In determining whether to permit electronic service of process, a court should consider whether the technology actually belongs to the defendant and whether the defendant regularly uses or recently used the technology. Other clarifying and stylistic changes have been made.

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

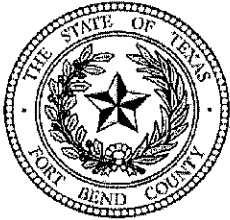
- (1-a) ~~Manner.~~Method. Service of process may be effected upon a party in a foreign country if ~~service of the citation and petition is made~~served:

- (a1) ~~in the manner~~as prescribed by the foreign country's law of the foreign country for service in that country in an action in ~~any of its courts of general jurisdiction;~~ or
- (b2) ~~as directed by the foreign authority~~ directs in response to a letter rogatory or a letter of request; ~~or~~
- (e3) ~~in the manner~~as provided by Rule 106(a); ~~or~~
- (d4) pursuant to the terms and provisions of any applicable ~~treaty or~~ conventioninternational agreement; ~~or~~
- (e5) by diplomatic or consular officials when authorized by the United States Department of State; or
- (f6) by any ~~other means directed by the court that is not prohibited by international agreement or the foreign country's law of the country where service is to be made,~~ as the court orders.

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

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

Comment to 2020 Change: Rule 108a is revised to provide that "other means" of service ordered under (a)(6) must not be prohibited by international agreement. Other clarifying and stylistic changes have been made.



**BEVERLEY MCGREW WALKER**  
**Fort Bend County District Clerk**  
**301 Jackson Street, Room 101**  
**Richmond, TX 77469**

Telephone: (281) 341-4509  
Fax: (281) 341-4519

### REQUEST FOR PROCESS

All sections must be completed for processing this request.

**Section 1:**

Cause No. \_\_\_\_\_

STYLE: \_\_\_\_\_ VS \_\_\_\_\_

**Section 2:**

**Check Process Type:**

- Citation  Precept to Serve / Notice of Hearing
- Citation by Posting  Citation by Commissioner of Insurance
- Temporary Restraining Order  Notice of Registration of Foreign Judgment
- Citation by Secretary of State  Writ of \_\_\_\_\_
- Application for Protective Order / Temporary (Ex Parte) Protective Order
- Citation by Publication\*:
  - Daily:** Fort Bend Herald  **Once a Week:** Fort Bend Independent
  - Other:** \_\_\_\_\_

\* In Accordance with the Fort Bend County Term Contract for Newspaper Publication of Legal Notices

Other \_\_\_\_\_

TCPRC 17.032 Citation by Publication (*Citation will be posted by the District Clerk's Office on the Office of Court Administration website*)

**REQUEST FOR ISSUANCE OF SUBPOENA MUST BE SUBMITTED ON A  
SUBPOENA APPLICATION FORM**

**Section 3:**

**Title of Document/Pleading to be attached for service:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Section 4: PARTIES TO BE SERVED (Please type or print):**

1. Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

2. Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

3. Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

4. Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Section 5**

**Check Service Type – Additional Fees Apply:**

- Fort Bend County – Constable\*       District Clerk Service\*\*
- Fort Bend County – Sheriff\*       Certified Mail
- Registered Mail (Out of Country)       Not Applicable – See Section 7

\* Fort Bend County Constable and Sheriff will only serve within their jurisdiction.  
 \*\* Fort Bend County District Clerk’s Office will only conduct service on Citation by Publications posted on the Office of Court Administration website.

**Section 6 (ONLY if Section 7 does not apply)**

**Please Note:** Our office will use the e-Service email address registered with the Texas State Bar.

**Attorney Name:** \_\_\_\_\_

Address: \_\_\_\_\_  
Street/P.O. Box

\_\_\_\_\_ City      \_\_\_\_\_ State      \_\_\_\_\_ Zip

Telephone No. \_\_\_\_\_ Bar No. \_\_\_\_\_

**Section 7 (ONLY if Section 6 does not apply)**

**Pro-Se Name:** \_\_\_\_\_

Address: \_\_\_\_\_  
Street/P.O. Box

\_\_\_\_\_ City      \_\_\_\_\_ State      \_\_\_\_\_ Zip

Telephone No. \_\_\_\_\_ Email Address \_\_\_\_\_

**Pro-se Service Only:**

- e-Service\*       Mail to Pro-se Party\*       Hold for Pick up
- \*Service will be mailed/emailed directly to pro-se party requesting issuance.*