

Supreme Court of Texas

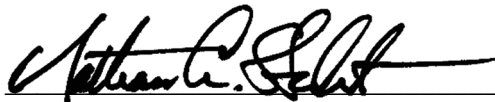
Misc. Docket No. 24-9107

Adoption of Comments to Texas Rules of Civil Procedure 21a, 106, and 119

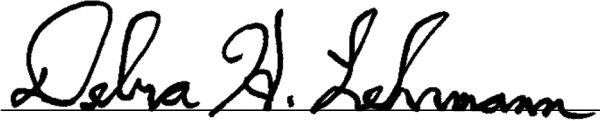
ORDERED that:

1. In accordance with the Act of May 9, 2023, 88th Leg., R.S., ch. 123 (H.B. 785); the Act of May 11, 2023, 88th Leg., R.S., ch. 205 (S.B. 1373); and the Act of May 11, 2023, 88th Leg., R.S., ch. 207 (S.B. 1457), the Court adopts comments to Texas Rules of Civil Procedure 21a, 106, and 119, effective immediately.
2. 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 this Order for publication in the *Texas Register*.

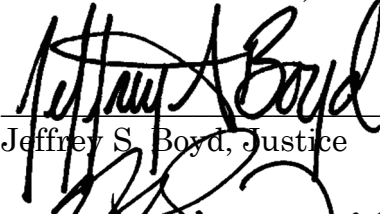
Dated: December 17, 2024.



Nathan L. Hecht, Chief Justice



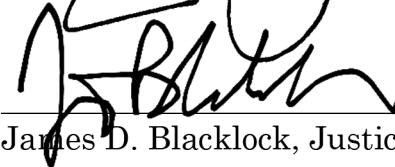
Debra H. Lehrmann, Justice



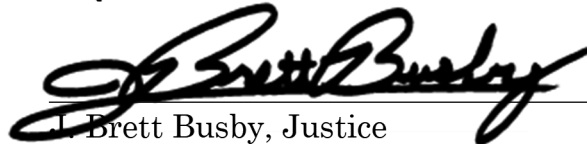
Jeffrey S. Boyd, Justice



John P. Devine, Justice



James D. Blacklock, Justice



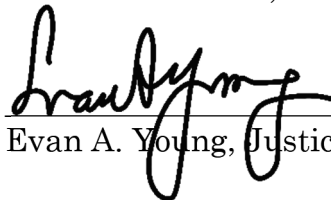
J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

TEXAS RULES OF CIVIL PROCEDURE

RULE 21a. METHODS OF SERVICE

- (a) **Methods of Service.** Every notice required by these rules, and every pleading, plea, motion, or other form of request required to be served under Rule 21, other than the citation to be served upon the filing of a cause of action and except as otherwise expressly provided in these rules, may be served by delivering a copy to the party to be served, or the party's duly authorized agent or attorney of record in the manner specified below:
- (1) **Documents Filed Electronically.** A document filed electronically under Rule 21 must be served electronically through the electronic filing manager if the email address of the party or attorney to be served is on file with the electronic filing manager. If the email address of the party or attorney to be served is not on file with the electronic filing manager, the document may be served on that party or attorney under subparagraph (2).
 - (2) **Documents Not Filed Electronically.** A document not filed electronically may be served in person, by mail, by commercial delivery service, by fax, by email, or by such other manner as the court in its discretion may direct.
- (b) **When Complete.**
- (1) Service by mail or commercial delivery service shall be complete upon deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service.
 - (2) Service by fax is complete on receipt. Service completed after 5:00 p.m. local time of the recipient shall be deemed served on the following day.
 - (3) Electronic service is complete on transmission of the document to the serving party's electronic filing service provider. The electronic filing manager will send confirmation of service to the serving party.
- (c) **Time for Action After Service.** Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, three days shall be added to the prescribed period.
- (d) **Who May Serve.** Notice may be served by a party to the suit, an attorney of record, a sheriff or constable, or by any other person competent to testify.

- (e) **Proof of Service.** The party or attorney of record shall certify to the court compliance with this rule in writing over signature and on the filed instrument. A certificate by a party or an attorney of record, or the return of the officer, or the affidavit of any other person showing service of a notice shall be prima facie evidence of the fact of service. Nothing herein shall preclude any party from offering proof that the document was not received, or, if service was by mail, that the document was not received within three days from the date that it was deposited in the mail, and upon so finding, the court may extend the time for taking the action required of such party or grant such other relief as it deems just.
- (f) **Procedures Cumulative.** These provisions are cumulative of all other methods of service prescribed by these rules.

Notes and Comments

2024 Comment: The Estates Code provides for other methods of service and citation, and proof thereof, in estate and guardianship proceedings and governs those proceedings.

RULE 106. METHOD OF SERVICE

- (a) Unless the citation or court order otherwise directs, the citation must be served by:
 - (1) delivering to the defendant, in person, a copy of the citation, showing the delivery date, and of the petition; or
 - (2) mailing to the defendant by registered or certified mail, return receipt requested, a copy of the citation and of the petition.
- (b) Upon motion supported by a statement—sworn to before a notary or made under penalty of perjury—listing any location where the defendant can probably be found and stating specifically the facts showing that service has been attempted under (a)(1) or (a)(2) at the location named in the statement but has not been successful, the court may authorize service:
 - (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

- (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.

Notes and Comments

2024 Comment: The Estates Code provides for other methods of service and citation, and proof thereof, in estate and guardianship proceedings and governs those proceedings.

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 plaintiff's 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.

Notes and Comments

2024 Comment: The Estates Code provides for waiver of citation by certain parties in probate heirship proceedings and governs those proceedings.