

STATE BAR OF TEXAS
COMMITTEE ON COURT RULES

REQUEST FOR NEW RULE OR CHANGE OF EXISTING RULE
TEXAS RULES OF CIVIL PROCEDURE

I. Exact wording of existing Rule:

Rule 114. CITATION BY PUBLICATION; REQUISITES

Where citation by publication is authorized by these rules, the citation shall contain the requisites prescribed by Rules 15 and 99, in so far as they are not inconsistent therewith, provided that no copy of the plaintiff's petition shall accompany this citation, and the citation shall be styled "The State of Texas" and shall be directed to the defendant or defendants by name, if their names are known, or to the defendant or defendants as designated in the petition, if unknown, or such other classification as may be fixed by any statute or by these rules. Where there are two or more defendants or classes of defendants to be served by publication, the citation may be directed to all of them by name and classification, so that service may be completed by publication of the one citation for the required number of times. The citation shall contain the names of the parties, a brief statement of the nature of the suit (which need not contain the details and particulars of the claim) a description of any property involved and the interest of the named or unknown defendant or defendants; and, where the suit involves land, the requisites of Rule 115. If issued from the district or county court, the citation shall command such parties to appear and answer at or before 10 o'clock a.m. of the first Monday after the expiration of 42 days from the date of issuance thereof, specifying the day of the week, the day of the month, and the time of day the defendant is required to answer. If issued from the justice of the peace court, such citation shall command such parties to appear and answer on or before the first day of the first term of court which convenes after the expiration of 42 days from the date of issue thereof, specifying the day of the week, the day of the month, that such term will meet.

II. Proposed Rule:

Rule 114. CITATION BY PUBLICATION; REQUISITES

Where citation by publication is authorized by these rules, the citation shall contain the requisites prescribed by Rules 15 and 99, in so far as they are not inconsistent therewith, provided that no copy of the plaintiff's petition shall accompany this citation, and the citation shall be styled "The State of Texas" and shall be directed to the defendant or defendants by name, if their names are known, or to the defendant or defendants as designated in the petition, if unknown, or such other classification as may be fixed by any statute or by these rules. Where there are two or more defendants or classes of defendants to be served by publication, the citation may be directed to all of them by name and classification, so that service may be completed by publication of the one

citation for the required number of times. The citation shall contain the names of the parties, a brief statement of the nature of the suit (which need not contain the details and particulars of the claim) a description of any property involved and the interest of the named or unknown defendant or defendants, and, where the suit involves land, the requisites of Rule 115. If issued from the district or county court, the citation shall command such parties to appear and answer ~~at or before~~ not later than 10 o'clock a.m. of the first Monday after the expiration of 42 days ~~from~~ ~~after~~ the date of issuance thereof, specifying the day of the week, the day of the month, and the time of day the defendant is required to answer. If issued from the justice of the peace court, such citation shall command such parties to appear and answer ~~on or before~~ not later than the first day of the first term of court which convenes after the expiration of 42 days ~~from~~ ~~after~~ the date of issue thereof, specifying the day of the week, the day of the month, that such term will meet.

III. Brief statement of reasons for requested changes and advantages to be served by them:

The proposed change is intended to promote greater clarity and consistency in the expression of time, time periods and deadlines by (1) referring to the "date" or "day" on which an event occurs, as opposed to "time" which may be construed to mean a time of day, (2) describing a time period in a way that makes the first and last days clear, and (3) leaving no doubt about which is the last day on which action may be taken, in accordance with §7.28 of the Texas Legislative Counsel Drafting Manual.

Respectfully submitted,



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