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 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 eh 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.

II. Proposed Rule:

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~~ **not later than** ten o'clock a.m. on the **first** Monday ~~next~~ after the expiration of twenty (20) days after the ~~day~~ **date** 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.

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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