

Rules Update:  
An Overview of New Procedural Rules and  
How They Affect Our Practice



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UT LAW CLE  
E-DISCOVERY ESSENTIALS  
APRIL 20, 2021

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**Quick Primer on Rulemaking Process (Civil)**



- **Authority** – Supreme Court of Texas
- **Prompting** – Various Sources (legislative, legal community, etc.)
- **Process** – Team Effort (rules attorney, committees, task forces, etc.)
- **Final Product** – Administrative Orders (including comments!)

*\*\*Comprehensive, searchable rule collections are on the court's website.\*\**

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## Overview of New Rules for 2021



- Service of Citation
- Expedited Actions
- Discovery Rules
- Form of Citation

**\*\*CAUTION:** In some cases, former rules still govern the proceedings.\*\*

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## Service of Citation



- Rules Amended → TRCP 106, 108a
- Relevant Materials
  - ❖ Misc. Docket No. 20-9103 (Appendix 1)
  - ❖ Misc. Docket No. 20-9148 (Appendix 2)
- Effective Date → December 31, 2020

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# Service by of Electronic Communication: SB 891



- Legislative mandate: SB 891 (2019)
- TCPRC § 17.033:
  - (a) If **substituted service** of citation is authorized under the Texas Rules of Civil Procedure, the court, in accordance with the rules adopted by the supreme court under Subsection (b), may prescribe **as a method of service an electronic communication** sent to the defendant through a social media presence.
  - (b) The supreme court shall adopt rules to provide for the substituted service of citation by an electronic communication sent to a defendant through a social media presence.

## Rule 106: Method of Service



“(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) [of TRCP 106] at the location named in the statement but has not been successful, the court may authorize service:”

....

“(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.”

**\*\*See the comment for guidance on establishing reasonable effectiveness.\*\***

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