

CIVIL PRACTICE AND REMEDIES CODE  
TITLE 2. TRIAL, JUDGMENT, AND APPEAL  
SUBTITLE B. TRIAL MATTERS  
CHAPTER 18. EVIDENCE

SUBCHAPTER A. DOCUMENTARY EVIDENCE

Sec. 18.001. AFFIDAVIT CONCERNING COST AND NECESSITY OF SERVICES. (a) This section applies to civil actions only, but not to an action on a sworn account.

(b) Unless a controverting affidavit is served as provided by this section, an affidavit that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is sufficient evidence to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary. The affidavit is not evidence of and does not support a finding of the causation element of the cause of action that is the basis for the civil action.

(c) The affidavit must:

(1) be taken before an officer with authority to administer oaths;

(2) be made by:

(A) the person who provided the service; or

(B) the person in charge of records showing the service provided and charge made; and

(3) include an itemized statement of the service and charge.

(d) The party offering the affidavit in evidence or the party's attorney must serve a copy of the affidavit on each other party to the case by the earlier of:

(1) 90 days after the date the defendant files an answer;

(2) the date the offering party must designate any expert witness under a court order; or

(3) the date the offering party must designate any expert witness as required by the Texas Rules of Civil Procedure.

(d-1) Notwithstanding Subsection (d), if services are provided for the first time by a provider after the date the defendant files an answer, the party offering the affidavit in evidence or the party's attorney must serve a copy of the affidavit for services provided by that provider on each other party to the case by the earlier of:

(1) the date the offering party must designate any expert witness under a court order; or

(2) the date the offering party must designate any expert witness as required by the Texas Rules of Civil Procedure.

(d-2) The party offering the affidavit in evidence or the party's attorney must file notice with the clerk of the court when serving the affidavit that the party or the attorney served a copy of the affidavit in accordance with this section. Except as provided by the Texas Rules of Evidence, the affidavit is not required to be filed with the clerk of the court before the trial commences.

(e) A party intending to controvert a claim reflected by the affidavit must serve a copy of the counteraffidavit on each other party or the party's attorney of record by the earlier of:

(1) 120 days after the date the defendant files its answer;

(2) the date the party offering the counteraffidavit must designate expert witnesses under a court order; or

(3) the date the party offering the counteraffidavit must designate any expert witness as required by the Texas Rules of Civil Procedure.

(e-1) Notwithstanding Subsection (e), if the party offering the affidavit in evidence serves a copy of the affidavit under Subsection (d-1), the party offering the counteraffidavit in evidence or the party's attorney must serve a copy of the counteraffidavit on each other party to the case by the later of:

(1) 30 days after service of the affidavit on the party offering the counteraffidavit in evidence;

(2) the date the party offering the counteraffidavit must designate any expert witness under a court order; or

(3) the date the party offering the counteraffidavit

in evidence must designate any expert witness as required by the Texas Rules of Civil Procedure.

(f) The counteraffidavit must give reasonable notice of the basis on which the party serving it intends at trial to controvert the claim reflected by the initial affidavit and must be taken before a person authorized to administer oaths. The counteraffidavit must be made by a person who is qualified, by knowledge, skill, experience, training, education, or other expertise, to testify in contravention of all or part of any of the matters contained in the initial affidavit. The counteraffidavit may not be used to controvert the causation element of the cause of action that is the basis for the civil action.

(g) The party offering the counteraffidavit in evidence or the party's attorney must file written notice with the clerk of the court when serving the counteraffidavit that the party or attorney served a copy of the counteraffidavit in accordance with this section.

(h) If continuing services are provided after a relevant deadline under this section:

(1) a party may supplement an affidavit served by the party under Subsection (d) or (d-1) on or before the 60th day before the date the trial commences; and

(2) a party that served a counteraffidavit under Subsection (e) or (e-1) may supplement the counteraffidavit on or before the 30th day before the date the trial commences.

(i) Notwithstanding Subsections (d), (d-1), (d-2), (e), (e-1), (g), and (h), a deadline under this section may be altered by all parties to an action by agreement or with leave of the court.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 3.04(a), eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 978 (S.B. 763), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 560 (S.B. 679), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 779 (H.B. 1693), Sec. 1, eff. September 1, 2019.

Sec. 18.002. FORM OF AFFIDAVIT. (a) An affidavit concerning cost and necessity of services by the person who provided the service is sufficient if it follows the following form:

No. \_\_\_\_\_ )  
John Doe ) \_\_\_\_\_ IN THE  
(Name of ) COURT IN AND  
Plaintiff) FOR  
v. ) \_\_\_\_\_  
John Roe ) COUNTY,  
(Name of ) TEXAS  
Defendant)

AFFIDAVIT

Before me, the undersigned authority, personally appeared \_\_\_\_\_(NAME OF AFFIANT)\_\_\_\_\_, who, being by me duly sworn, deposed as follows:

My name is \_\_\_\_\_(NAME OF AFFIANT)\_\_\_\_\_. I am of sound mind and capable of making this affidavit.

On \_\_\_\_\_(DATE)\_\_\_\_\_, I provided a service to \_\_\_\_\_(NAME OF PERSON WHO RECEIVED SERVICE)\_\_\_\_\_. An itemized statement of the service and the charge for the service is attached to this affidavit and is a part of this affidavit.

The service I provided was necessary and the amount that I charged for the service was reasonable at the time and place that the service was provided.

\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

My commission expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of  
Texas  
Notary's printed name:  
\_\_\_\_\_

(b) An affidavit concerning cost and necessity of services by the person who is in charge of records showing the service provided and the charge made is sufficient if it follows the

following form:

No. \_\_\_\_\_ )  
 ) IN THE  
 John Doe ) \_\_\_\_\_  
 ) COURT IN AND  
 (Name of ) FOR  
 Plaintiff) v. ) \_\_\_\_\_  
 ) COUNTY,  
 John Roe ) TEXAS  
 )  
 (Name of )  
 Defendant)

AFFIDAVIT

Before me, the undersigned authority, personally appeared \_\_\_\_\_(NAME OF AFFIANT)\_\_\_\_\_, who, being by me duly sworn, deposed as follows:

My name is \_\_\_\_\_(NAME OF AFFIANT)\_\_\_\_\_. I am of sound mind and capable of making this affidavit.

I am the person in charge of records of \_\_\_\_\_(PERSON WHO PROVIDED THE SERVICE)\_\_\_\_\_. Attached to this affidavit are records that provide an itemized statement of the service and the charge for the service that \_\_\_\_\_(PERSON WHO PROVIDED THE SERVICE)\_\_\_\_\_ provided to \_\_\_\_\_(PERSON WHO RECEIVED THE SERVICE)\_\_\_\_\_ on \_\_\_\_\_(DATE)\_\_\_\_\_. The attached records are a part of this affidavit.

The attached records are kept by me in the regular course of business. The information contained in the records was transmitted to me in the regular course of business by \_\_\_\_\_(PERSON WHO PROVIDED THE SERVICE)\_\_\_\_\_ or an employee or representative of \_\_\_\_\_(PERSON WHO PROVIDED THE SERVICE)\_\_\_\_\_ who had personal knowledge of the information. The records were made at or near the time or reasonably soon after the time that the service was provided. The records are the original or an exact duplicate of the original.

The service provided was necessary and the amount charged for the service was reasonable at the time and place that the service was provided.

\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires:

\_\_\_\_\_

Texas

\_\_\_\_\_  
Notary Public, State of  
Notary's printed name:  
\_\_\_\_\_

(b-1) Notwithstanding Subsection (b), an affidavit concerning proof of medical expenses is sufficient if it substantially complies with the following form:

Affidavit of Records Custodian of

\_\_\_\_\_

STATE OF TEXAS §

§

COUNTY OF \_\_\_\_\_ §

Before me, the undersigned authority, personally appeared \_\_\_\_\_, who, being by me duly sworn, deposed as follows:

My name is \_\_\_\_\_. I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for \_\_\_\_\_. Attached to this affidavit are records that provide an itemized statement of the service and the charge for the service that \_\_\_\_\_ provided to \_\_\_\_\_ on \_\_\_\_\_. The attached records are a part of this affidavit.

The attached records are kept by \_\_\_\_\_ in the regular course of business, and it was the regular course of business of \_\_\_\_\_ for an employee or representative of \_\_\_\_\_, with knowledge of the service provided, to make the record or to transmit information to be included in the record. The records were made in the regular course of business at or near the time or reasonably soon after the time the service was provided. The records are the original or a duplicate of the original.

The services provided were necessary and the amount charged for the services was reasonable at the time and place that the services were provided.

The total amount paid for the services was \$\_\_\_\_\_ and the amount currently unpaid but which \_\_\_\_\_ has a right to be paid after any adjustments or credits is \$\_\_\_\_\_.

\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

Notary's printed name:\_\_\_\_\_

My commission expires:\_\_\_\_\_

(b-2) If a medical bill or other itemized statement attached to an affidavit under Subsection (b-1) reflects a charge that is not recoverable, the reference to that charge is not admissible.

(c) The form of an affidavit provided by this section is not exclusive and an affidavit that substantially complies with Section [18.001](#) is sufficient.

Added by Acts 1993, 73rd Leg., ch. 248, Sec. 1, eff. Aug. 30, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 560 (S.B. [679](#)), Sec. 2, eff. September 1, 2013.

(b) Proof of the existence of a one-way street sign is prima facie proof that the public thoroughfare on or alongside which the sign is placed was designated by proper and competent authority to