

RECEIVED AND FILED  
FOR RECORD  
At \_\_\_\_\_ O'clock \_\_\_\_\_ M.

CAUSE NO.(s) 09-11-11474

Karen McPeters

VS.

Barbara Gladden Adamick, Dist. Clerk of Montgomery Co, Texas

IN THE DISTRICT CLERK OF  
MONTGOMERY COUNTY, TEXAS  
9th JUDICIAL DISTRICT COURT

MAR 26 2010  
Barbara Gladden Adamick  
District Clerk  
Montgomery County, Texas  
Deputy

DEPUTY REPORTER STATEMENT

Pursuant to Rule 13.5 of the Texas Rules of Appellate Procedure, Appointing Deputy Reporter, I hereby certify the following:

- A. The judge of the above-trial court designated the undersigned as a deputy reporter in the above cause(s).
- B. The judge presiding over the above cause(s) was:  
Bob Wortham
- C. I, undersigned deputy reporter, worked the following date in the above court and on the above case.

SIGNED on this the 26 day of March of 20 10.

Leticia V. Salas

Signature

Leticia V. Salas

Print Name

7424 Azalea Street

Address

Houston, Tx 77023

City/State/Zip

Phone: 281-917-9803

CSR # 5950 CSR Expires: 12/31/2011

Firm Registration No. \_\_\_\_\_  
(if applicable)

I, Barbara Gladden Adamick, do hereby certify 1 pages in Cause # 09-11-11474 as being a true and correct copy of the Original Record now on file in the District Clerk's Office of Montgomery County, Texas.

Witness My Official Seal of Office in Conoco, Texas  
On This the 21 day of April, 2010

By Ellen Blake, Deputy

**COPY**

Cause No. 09-11-11474-CV

MAR 26 2010

KAREN McPETERS

§

IN THE DISTRICT COURT OF  
MONTGOMERY COUNTY, TEXAS  
By Barbara Gladden Adamick, Deputy

V.

§

MONTGOMERY COUNTY, TEXAS

BARBARA GLADDEN ADAMICK,  
DISTRICT CLERK OF MONTGOMERY  
COUNTY, TEXAS

§

§

9TH JUDICIAL DISTRICT

ORDER DENYING TEX. R. CIV. P. 202 DEPOSITION

BE IT REMEMBERED that on this day came on to be considered the Petition of Karen McPeters pursuant to Tex. R. Civ. P. Rule 202 requesting the Court to authorize the taking of a deposition on oral examination duces tecum of Barbara Gladden Adamick, District Clerk of Montgomery County, Texas. The Court, having considered the evidence presented and the arguments of counsel, finds that no failure or delay of justice in an anticipated suit will occur if the deposition is not taken and finds that the burden and expense of the requested procedure outweighs the likely benefit of allowing Karen McPeters to take the requested deposition. It is, therefore,

ORDERED by the Court that the request of Karen McPeters to take the oral deposition of Barbara Gladden Adamick, District Clerk of Montgomery County, Texas, be, and is hereby, DENIED.

SIGNED on March 26<sup>TH</sup>, 2010.

I, Barbara Gladden Adamick, do hereby  
Certify 2 pages in Cause # 09-11-11474  
as being a true and correct copy of the  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas. CV

[Signature]  
JUDGE PRESIDING

Witness My Official Seal of Office in Conroe, Texas  
On This The 21 Day of April, 2010

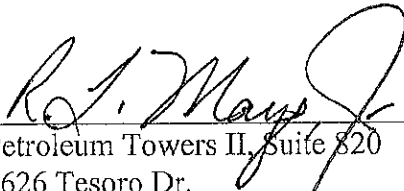
By: [Signature], Deputy

SCANNED

E-FILE  
30704021

APPROVED AS TO FORM:

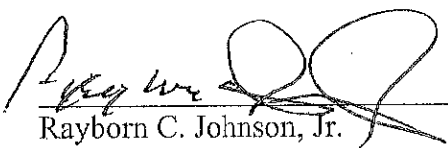
ROBERT L. MAYS, JR.

  
\_\_\_\_\_  
Petroleum Towers II, Suite 820  
8626 Tesoro Dr.  
San Antonio, TX 78217  
Telephone (210) 657-7772  
Telecopier (210) 657-7780  
Email: [mays7772@gmail.com](mailto:mays7772@gmail.com)  
TBN: 13308200

ATTORNEY FOR PETITIONER  
KAREN McPETERS

APPROVED:

DAVID K. WALKER  
Montgomery County Attorney

By:   
\_\_\_\_\_  
Rayborn C. Johnson, Jr.  
Assistant County Attorney  
207 W. Phillips, First Floor  
Conroe, TX 77301  
Telephone (936) 539-7828  
Telecopier (936) 760-6920  
E-mail [ray.johnson@mctx.org](mailto:ray.johnson@mctx.org)  
S.B.O.T. # 10820500

ATTORNEY FOR RESPONDENT  
BARBARA GLADDEN ADAMICK

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on signature page"**

Your transaction has been successfully submitted to LexisNexis File & Serve. Your transaction information appears below. To print this information for your records, click anywhere on the transaction information, then click the browser Print button.

For a formatted copy of this information, obtain a [transaction report](#).

To perform another transaction, click **Begin a New Transaction**.

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**TIP:** Receive notifications of new Filing & Service activity that match your search criteria. Click on the Alerts tab.

### LexisNexis File & Serve Transaction Receipt

**Transaction ID:** 30704021  
**Submitted by:** Ellen Blakeway, TX Montgomery 410th District Court  
**Authorized by:** Fred E Edwards, TX Montgomery 9th District Court  
**Authorize and file on:** Apr 21 2010 2:58PM CDT

**Court:** TX Montgomery 9th District Court  
**Division/Courtroom:** N/A  
**Case Class:** Civil  
**Case Type:** Other Civil  
**Case Number:** 09-11-11474  
**Case Name:** Mcpeters, Karen vs Barbara Gladden Adamick

**Transaction Option:** File and Serve  
**Billing Reference:**

#### Documents List

##### 1 Document(s)

**Attached Document, 2 Pages Document ID: 29297326** [PDF Format](#) | [Original Format](#)

**Document Type:** Order **Access:** Public **Statutory Fee:** \$0.00 **Linked:**

##### Document title:

SIGNED ORDER DENYING TEX. R. CIV. P. 202 DEPOSITION - SIGNED BY JUDGE BOB WORTHAM ON MARCH 26, 2010 SITTING AS NINTH DISTRICT COURT

[Expand All](#)

##### Sending Parties (1)

Party	Party Type	Attorney	Firm	Attorney Type
N/A	N/A	Edwards, Fred E	TX Montgomery 9th District Court	Primary Judge

##### Recipients (2)

###### Service List (2)

Delivery Option	Party	Party Type	Attorney	Firm	Attorney Type	Method
Service	Adamick, Barbara Gladden	Defendant	Johnson, Rayborn C	County Attorneys Office-Montgomery-TX	Attorney in Charge	E-Service
Service	McPeters, Karen	Plaintiff	Mays, Robert	Mays, Robert L Jr	Attorney in Charge	E-Service

###### Additional Recipients (0)

##### Case Parties

I, Barbara Gladden Adamick, do hereby  
 Certify 2 pages in Cause # 09-11-11474CV  
 as being a true and correct copy of the  
 Original Record now on file in the District  
 Clerk's Office of Montgomery County, Texas.

Witness My Official Seal of Office in Conroe, Texas  
 On This The 21 Day of April, 2010

By: Ellen Blakeway

[Begin a New Transaction](#)

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on signature page"**

CAUSE NO. 09-11-11474

KAREN MCPETERS

IN THE DISTRICT COURT OF

VS.

MONTGOMERY COUNTY, TEXAS

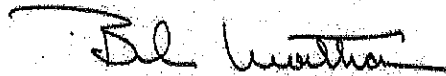
BARBARA GLADDEN ADAMICK,  
DISTRICT CLERK OF MONTGOMERY  
COUNTY, TEXAS

9<sup>TH</sup> JUDICIAL DISTRICT

**NOTICE OF HEARING**

**PLEASE BE ADVISED** that a hearing on Plaintiff's Petition to Investigate Potential Claims Pursuant to Tex. R. Civ. P. is scheduled for **Friday, March 26, 2010, at 1:30 p.m.** in the Ancillary Courtroom (Suite 222) of Montgomery County, Texas.

SIGNED this 5<sup>th</sup> day of March 2010.



BOB WORTHAM, JUDGE  
58<sup>TH</sup> DISTRICT COURT

I, Barbara Gladden Adamick, do hereby  
Certify 2 pages in Cause # 09-11-11474  
as being a true and correct copy of the  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.  
Witness My Official Seal of Office in Conroe, Texas  
On This 21 Day of April, 2010  
By: Ellen Blake, Deputy

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30215793  
3/24/10

SCANNED

### LexisNexis File & Serve Transaction Receipt

**Transaction ID:** 30215793  
**Submitted by:** Lindsey Kane, TX Montgomery 9th District Court  
**Authorized by:** Fred E Edwards, TX Montgomery 9th District Court  
**Authorize and file on:** Mar 24 2010 10:22AM CDT

**Court:** TX Montgomery 9th District Court  
**Division/Courtroom:** N/A  
**Case Class:** Civil  
**Case Type:** Other Civil  
**Case Number:** 09-11-11474  
**Case Name:** Mcpeters, Karen vs Barbara Gladden Adamick

**Transaction Option:** File and Serve  
**Billing Reference:**

**Documents List**

1 Document(s)

**Attached Document, 1 Pages Document ID: 28592648** [PDF Format](#) | [Original Format](#)

**Document Type:** Order **Access:** Public **Statutory Fee:** \$0.00 **Linked:**

**Document title:**  
 Order Setting Hearing Signed by Judge Wortham

[Expand All](#)

**Sending Parties (1)**

Party	Party Type	Attorney	Firm	Attorney Type
N/A	N/A	Edwards, Fred E	TX Montgomery 9th District Court	Primary Judge

**Recipients (2)**

**Service List (2)**

Delivery Option	Party	Party Type	Attorney	Firm	Attorney Type	Method
Service	Adamick, Barbara Gladden	Defendant	No Answer on File	Firm TBD	Attorney in Charge	U.S. Mail
Service	McPeters, Karen	Plaintiff	Mays, Robert	Mays, Robert L Jr	Attorney in Charge	E-Service

**Additional Recipients (0)**

**Case Parties**

Close



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CAUSE NO. 09-11-11474

RECEIVED AND FILED  
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At 8 o'clock M.  
NOV 24 2009

BARBARA GLADDEN ADAMICK  
District Clerk  
MONTGOMERY COUNTY TEXAS

IN THE DISTRICT

94m JUDICIAL DISTRICT

KAREN McPETERS  
Plaintiff

vs.

BARBARA GLADDEN ADAMICK,  
DISTRICT CLERK OF MONTGOMERY  
COUNTY, TEXAS  
Defendant

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MONTGOMERY COUNTY, TEXAS

**ORDER ALLOWING DEPOSITION TO INVESTIGATE POTENTIAL CLAIMS  
PURSUANT TO TEX. R. CIV. P. 202**

On this day, the Court considered the Petition of Karen McPeters to investigate potential claims as is permitted under Tex. R. Civ. P. 202. The Court finds that the likely benefit of allowing the Petitioner to take the requested deposition to investigate her potential claims outweighs the burden or expense of the procedure.

It is ORDERED THAT the deposition of Barbara Gladden Adamick be taken on oral examination duces tecum, and will occur on \_\_\_\_\_, January \_\_\_\_\_, 2010 in the conference room of the Montgomery County Attorney David K. Walker, 207 West Phillips, Suite 100, Conroe, Texas 77301, phone: 936-539-7828, beginning at 9:00 o'clock a.m.

The deposition will be stenographically recorded and videotaped by Esquire Deposition Services, a certified court reporting service. The deposition may be used in evidence in the event of a trial concerning the above parties. The oral examination will continue until completed, but shall not last more than ninety (90) minutes.

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on signature page"



SIGNED on this the \_\_\_\_ day of December, 2009.

JUDGE PRESIDING

APPROVED AS TO FORM:

Robert L. Mays, Jr.  
Petroleum Towers II, Ste. 820  
8626 Tesoro Drive  
San Antonio, TX 78217  
Phone: 210-657-7772  
Email: rlmays@swbell.net  
TBN: 13308200  
Attorney for Plaintiff Karen McPeters

I, Barbara Gladden Adamick, do hereby  
Certify 2 pages in Cause # 0911-11474  
as being a true and correct copy of the CV  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.

Witness My Official Seal of Office in Conroe, Texas  
On This 11 Day of April, 2010

By: Barbara Gladden Adamick Deputy

CAUSE NO. 09-11-11474

RECEIVED AND FILED  
FOR RECORD  
At 8 O'clock A.M.  
NOV 24 2009

BARBARA GLADDEN ADAMICK  
MONTGOMERY COUNTY, TEXAS  
DISTRICT CLERK  
IN THE JUDICIAL DISTRICT  
FILE  
28299709

KAREN McPETERS  
Plaintiff

vs.

BARBARA GLADDEN ADAMICK,  
DISTRICT CLERK OF MONTGOMERY  
COUNTY, TEXAS  
Defendant

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9th

JUDICIAL DISTRICT

MONTGOMERY COUNTY, TEXAS

**PETITION TO INVESTIGATE POTENTIAL CLAIMS**  
**PURSUANT TO TEX. R. CIV. P. 202**

TO THE HONORABLE JUDGE OF SAID COURT:

Now Comes Karen McPeters ("McPeters"), hereinafter also referred to as "Petitioner," and files this Petition, pursuant to *Tex. R. Civ. P. 202*, copy attached, requesting the Court to authorize the taking of a deposition on oral examination duces tecum of Barbara Gladden Adamick, District Clerk of Montgomery County, Texas, also sometimes referred to herein as "Respondent," and states:

1. Petitioner Karen McPeters is an individual involved in litigation in Montgomery County, and seeks to investigate potential claims against Respondent.
2. **Barbara Gladden Adamick, District Clerk of Montgomery County, Texas**, is the Respondent in her capacity as the District Clerk of Montgomery County, a sub-division of a governmental entity.
3. Venue is anticipated to lie in a District Court of Montgomery County, Texas, subject to a transfer of venue based upon a conflict-of-interest.

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SCANNED

**SUBJECT MATTER OF THE ANTICIPATED ACTION**

4. Karen McPeters is a plaintiff in Cause No. 07-09-09142, styled "Karen McPeters v. Montgomery County, Texas" in the 9<sup>th</sup> District Court of Montgomery County, Texas. As a party to a civil lawsuit, she has been required to use Lexis Nexis, an on-line electronic filing service, to file and serve documents and pleadings in her lawsuit. She has been required to pay filing fees and service charges to Lexis Nexis, and documents tendered to the District Clerk for filing have been either refused or returned with an admonition that the file-stamp is void.

5. The purpose of this petition is to investigate, pursuant to *Tex. R. Civ. P.* 202.2(d):

- (a) whether or not the charges are authorized,
- (b) the amounts of permissible charges, if any,
- (c) the authority of the Montgomery County District Clerk to refuse to file documents tendered to her,
- (d) the financial benefit to Montgomery County from requiring parties to lawsuits to use Lexis Nexis file and serve, and

6. The substance of the testimony that petitioner expects to elicit, pursuant to *Tex. R. Civ. P.* 202.2(g), is that:

- (a) Lexis Nexis is acting as respondent's agent;
- (b) the charges by Lexis Nexis are not authorized by law, *Tex. Gov't Code* §101.061, and *Tex. Gov't Code* §51.317;
- (c) the District Clerk is required by statute to accept and file documents tendered to her, *Tex. Gov't Code* § 51.303(a) and *Texas Rule of Civil Procedure* 21;
- (d) Montgomery County, Texas has financially benefitted by its agreement with Lexis Nexis;
- (e) numerous parties have been charged the filings fees and service charges, and
- (f) the frequency with which the District Clerk refuses to accept documents.

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on signature page"

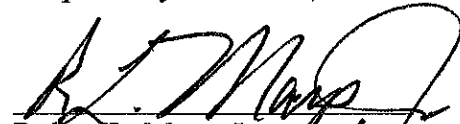
Petitioner wishes to obtain the testimony to investigate potential claims regarding unauthorized filing fees and service charges. See *Tex. Gov't Code* §101.061.

7. The person to be deposed is **Barbara Gladden Adamick, District Clerk of Montgomery County, Texas**. Her address is 301 N. Main Street, Suite 103, Conroe, Texas. Her telephone number is 936-539-7855. Petitioner can schedule the deposition at any time during January 2010, and anticipates that the deposition will take no longer than ninety (90) minutes.

**RELIEF REQUESTED**

8. Karen McPeters requests an order authorizing her to take the oral deposition duces tecum of **Barbara Gladden Adamick, District Clerk of Montgomery County, Texas**. A proposed order meeting the requirements of *Tex. R. Civ. P.* 202 is attached.

Respectfully submitted,



Robert L. Mays, Jr.  
8626 Tesoro Drive, Suite 820  
San Antonio, Texas 78217  
Phone: 210-657-7772  
FAX: 210-657-7780  
TBN: 13308200  
Attorney for Petitioner Karen McPeters

I, Barbara Gladden Adamick, do hereby  
Certify 8 pages in Cause # 09-11-11474  
as being a true and correct copy of the cu  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.

Witness My Official Seal of Office in Conroe, Texas  
On This The 21 Day of April, 2010

By: Ellen Blakeney, Deputy

VERIFICATION

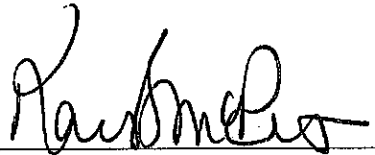
STATE OF TEXAS    )  
                                  )  
COUNTY OF BEXAR    )

BEFORE ME THIS DAY personally appeared Karen McPeters, the undersigned Affiant,  
who being by me duly sworn, deposed and stated as follows:

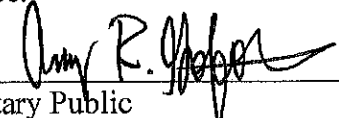
“My name is Karen McPeters; I am over the age of eighteen (18) years and am fully  
competent to make this Verification. I have personal knowledge of all of the facts recited in this  
Petition, and they are true and correct.”

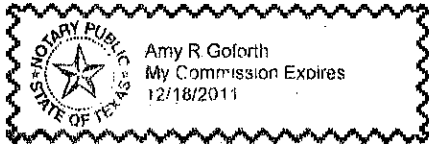
This concludes my testimony.

SIGNED on this the 20<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Karen McPeters, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this the 20<sup>th</sup> day of November,  
2009, to certify which witness my hand and official seal of office.

  
\_\_\_\_\_  
Notary Public  
State of Texas  
My Commission Expires: 12/18/2011



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the deposition officer a copy of the notice and of all written questions to be asked during the deposition.

(b) *Content of Notice.* The notice must comply with Rules 199.1(b), 199.2(b), and 199.5(a)(3). If the witness is an organization, the organization must comply with the requirements of that provision. The notice also may include a request for production of documents as permitted by Rule 199.2(b)(5), the provisions of which will govern the request, service, and response.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

### 200.2. Compelling Witness to Attend

A party may compel the witness to attend the deposition on written questions by serving the witness with a subpoena under Rule 176. If the witness is a party or is retained by, employed by, or otherwise subject to the control of a party, however, service of the deposition notice upon the party's attorney has the same effect as a subpoena served on the witness.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

### 200.3. Questions and Objections

(a) *Direct Questions.* The direct questions to be propounded to the witness must be attached to the notice.

(b) *Objections and Additional Questions.* Within ten days after the notice and direct questions are served, any party may object to the direct questions and serve cross-questions on all other parties. Within five days after cross-questions are served, any party may object to the cross-questions and serve redirect questions on all other parties. Within three days after redirect questions are served, any party may object to the redirect questions and serve recross questions on all other parties. Objections to recross questions must be served within five days after the earlier of when recross questions are served or the time of the deposition on written questions.

(c) *Objections to Form of Questions.* Objections to the form of a question are waived unless asserted in accordance with this subdivision.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

### 200.4. Conducting the Deposition Upon Written Questions

The deposition officer must: take the deposition on written questions at the time and place designated; record the testimony of the witness under oath in response to the questions; and prepare, certify, and deliver the deposition transcript in accordance with Rule 203. The deposition officer has authority when

necessary to summon and swear an interpreter to facilitate the taking of the deposition.

Added Aug. 5, 1998 and Nov. 9, 1998, and amended Dec. 31, 1998, eff. Jan. 1, 1999.

#### Historical Notes

The Order dated December 31, 1998, made technical corrections.

### Rule 201. Depositions in Foreign Jurisdictions for Use in Texas Proceedings; Depositions in Texas for Use in Foreign Proceedings

#### Comments—1999

1. Rule 201.1 sets forth procedures for obtaining deposition testimony of a witness in another state or foreign jurisdiction for use in Texas court proceedings. It does not, however, address whether any of the procedures listed are, in fact, permitted or recognized by the law of the state or foreign jurisdiction where the witness is located. A party must first determine what procedures are permitted by the jurisdiction where the witness is located before using this rule.

2. Section 20.001 of the Civil Practice and Remedies Code provides a nonexclusive list of persons who are qualified to take a written deposition in Texas and who may take depositions (oral or written) in another state or outside the United States.

3. Rule 201.2 is based on Section 20.002 of the Civil Practice and Remedies Code.

#### Historical Notes

Former rule 201 was repealed by order effective January 1, 1999. For subject matter of former rule 201, see, now, rules 176.6, 199.

### 201.1. Depositions in Foreign Jurisdictions for Use in Texas Proceedings

(a) *Generally.* A party may take a deposition on oral examination or written questions of any person or entity located in another state or a foreign country for use in proceedings in this State. The deposition may be taken by:

- (1) notice;
- (2) letter rogatory, letter of request, or other such device;
- (3) agreement of the parties; or
- (4) court order.

(b) *By Notice.* A party may take the deposition by notice in accordance with these rules as if the deposition were taken in this State, except that the deposition officer may be a person authorized to administer oaths in the place where the deposition is taken.

(c) *By Letter Rogatory.* On motion by a party, the court in which an action is pending must issue a letter rogatory on terms that are just and appropriate, regardless of whether any other manner of obtaining

the deposition is impractical or inconvenient. The letter must:

(1) be addressed to the appropriate authority in the jurisdiction in which the deposition is to be taken;

(2) request and authorize that authority to summon the witness before the authority at a time and place stated in the letter for examination on oral or written questions; and

(3) request and authorize that authority to cause the witness's testimony to be reduced to writing and returned, together with any items marked as exhibits, to the party requesting the letter rogatory.

(d) *By Letter of Request or Other Such Device.* On motion by a party, the court in which an action is pending, or the clerk of that court, must issue a letter of request or other such device in accordance with an applicable treaty or international convention on terms that are just and appropriate. The letter or other device must be issued regardless of whether any other manner of obtaining the deposition is impractical or inconvenient. The letter or other device must:

(1) be in the form prescribed by the treaty or convention under which it is issued, as presented by the movant to the court or clerk; and

(2) must state the time, place, and manner of the examination of the witness.

(e) *Objections to Form of Letter Rogatory, Letter of Request, or Other Such Device.* In issuing a letter rogatory, letter of request, or other such device, the court must set a time for objecting to the form of the device. A party must make any objection to the form of the device in writing and serve it on all other parties by the time set by the court, or the objection is waived.

(f) *Admissibility of Evidence.* Evidence obtained in response to a letter rogatory, letter of request, or other such device is not inadmissible merely because it is not a verbatim transcript, or the testimony was not taken under oath, or for any similar departure from the requirements for depositions taken within this State under these rules.

(g) *Deposition by Electronic Means.* A deposition in another jurisdiction may be taken by telephone, videoconference, teleconference, or other electronic means under the provisions of Rule 199.<sup>1</sup>

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

<sup>1</sup> Vernon's Ann. Rules Civ. Proc., rule 199.1 et seq.

#### Historical Notes

#### Source:

Former rule 188.

## 201.2. Depositions in Texas for Use in Proceedings in Foreign Jurisdictions

If a court of record of any other state or foreign jurisdiction issues a mandate, writ, or commission that requires a witness's oral or written deposition testimony in this State, the witness may be compelled to appear and testify in the same manner and by the same process used for taking testimony in a proceeding pending in this State.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

## Rule 202. Depositions Before Suit or to Investigate Claims

### Comments—1999

Comments to 1999 change:

1. This rule applies to all discovery before suit covered by former rules governing depositions to perpetuate testimony and bills of discovery.

2. A deposition taken under this rule may be used in a subsequent suit as permitted by the rules of evidence, except that a court may restrict or prohibit its use to prevent taking unfair advantage of a witness or others. The bill of discovery procedure, which Rule 202 incorporates, is equitable in nature, and a court must not permit it to be used inequitably.

### Historical Notes

Former rule 202 was repealed by order effective January 1, 1999. For subject matter of former rule 202, see, now, rules 199.1, 203.6.

### 202.1. Generally

A person may petition the court for an order authorizing the taking of a deposition on oral examination or written questions either:

(a) to perpetuate or obtain the person's own testimony or that of any other person for use in an anticipated suit; or

(b) to investigate a potential claim or suit.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

### Historical Notes

The order of Nov. 9, 1998 provides that the rule applies to proceedings filed on or after Jan. 1, 1999, but a court may use the rules for guidance in previously filed proceedings.

### 202.2. Petition

The petition must:

(a) be verified;

(b) be filed in a proper court of any county:

(1) where venue of the anticipated suit may lie, if suit is anticipated; or

(2) where the witness resides, if no suit is yet anticipated;

(c) be in the name of the petitioner;

(d) state either:

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- (1) that the petitioner anticipates the institution of a suit in which the petitioner may be a party; or
- (2) that the petitioner seeks to investigate a potential claim by or against petitioner;
- (e) state the subject matter of the anticipated action, if any, and the petitioner's interest therein;
- (f) if suit is anticipated, either:
  - (1) state the names of the persons petitioner expects to have interests adverse to petitioner's in the anticipated suit, and the addresses and telephone numbers for such persons; or
  - (2) state that the names, addresses, and telephone numbers of persons petitioner expects to have interests adverse to petitioner's in the anticipated suit cannot be ascertained through diligent inquiry, and describe those persons;
  - (g) state the names, addresses and telephone numbers of the persons to be deposed, the substance of the testimony that the petitioner expects to elicit from each, and the petitioner's reasons for desiring to obtain the testimony of each; and
  - (h) request an order authorizing the petitioner to take the depositions of the persons named in the petition.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

**Historical Notes**

The order of Nov. 9, 1998 provides that the rule applies to proceedings filed on or after Jan. 1, 1999, but a court may use the rules for guidance in previously filed proceedings.

**202.3. Notice and Service**

(a) *Personal Service on Witnesses and Persons Named.* At least 15 days before the date of the hearing on the petition, the petitioner must serve the petition and a notice of the hearing—in accordance with Rule 21a—on all persons petitioner seeks to depose and, if suit is anticipated, on all persons petitioner expects to have interests adverse to petitioner's in the anticipated suit.

(b) *Service by Publication on Persons Not Named.*

(1) *Manner.* Unnamed persons described in the petition whom the petitioner expects to have interests adverse to petitioner's in the anticipated suit, if any, may be served by publication with the petition and notice of the hearing. The notice must state the place for the hearing and the time it will be held, which must be more than 14 days after the first publication of the notice. The petition and notice must be published once each week for two consecutive weeks in the newspaper of broadest circulation in the county in which the petition is filed, or if no such newspaper exists, in the newspa-

per of broadest circulation in the nearest county where a newspaper is published.

(2) *Objection to Depositions Taken on Notice by Publication.* Any interested party may move, in the proceeding or by bill of review, to suppress any deposition, in whole or in part, taken on notice by publication, and may also attack or oppose the deposition by any other means available.

(c) *Service in Probate Cases.* A petition to take a deposition in anticipation of an application for probate of a will, and notice of the hearing on the petition, may be served by posting as prescribed by Section 33(f)(2) of the Probate Code. The notice and petition must be directed to all parties interested in the testator's estate and must comply with the requirements of Section 33(c) of the Probate Code insofar as they may be applicable.

(d) *Modification by Order.* As justice or necessity may require, the court may shorten or lengthen the notice periods under this rule and may extend the notice period to permit service on any expected adverse party.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

**Historical Notes**

The order of Nov. 9, 1998 provides that the rule applies to proceedings filed on or after Jan. 1, 1999, but a court may use the rules for guidance in previously filed proceedings.

**202.4. Order**

(a) *Required Findings.* The court must order a deposition to be taken if, but only if, it finds that:

- (1) allowing the petitioner to take the requested deposition may prevent a failure or delay of justice in an anticipated suit; or
- (2) the likely benefit of allowing the petitioner to take the requested deposition to investigate a potential claim outweighs the burden or expense of the procedure.

(b) *Contents.* The order must state whether a deposition will be taken on oral examination or written questions. The order may also state the time and place at which a deposition will be taken. If the order does not state the time and place at which a deposition will be taken, the petitioner must notice the deposition as required by Rules 199<sup>1</sup> or 200.<sup>2</sup> The order must contain any protections the court finds necessary or appropriate to protect the witness or any person who may be affected by the procedure.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

<sup>1</sup> Vernon's Ann. Rules Civ. Proc., rule 199.1 et seq.

<sup>2</sup> Vernon's Ann. Rules Civ. Proc., rule 200.1 et seq.

"Certified as to certification on signature page"



**Historical Notes**

The order of Nov. 9, 1998 provides that the rule applies to proceedings filed on or after Jan. 1, 1999, but a court may use the rules for guidance in previously filed proceedings.

**202.5. Manner of Taking and Use**

Except as otherwise provided in this rule, depositions authorized by this rule are governed by the rules applicable to depositions of nonparties in a pending suit. The scope of discovery in depositions authorized by this rule is the same as if the anticipated suit or potential claim had been filed. A court may restrict or prohibit the use of a deposition taken under this rule in a subsequent suit to protect a person who was not served with notice of the deposition from any unfair prejudice or to prevent abuse of this rule.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

**Historical Notes**

The order of Nov. 9, 1998 provides that the rule applies to proceedings filed on or after Jan. 1, 1999, but a court may use the rules for guidance in previously filed proceedings.

Source:

Former rule 187, 737.

**Rule 203. Signing, Certification and Use of Oral and Written Depositions****Historical Notes**

Former rule 203 was repealed by order effective January 1, 1999. For subject matter of former rule 203, see, now, rules 176.8, 215.

Source:

Former rules 205, 206, 207.

**203.1. Signature and Changes**

(a) *Deposition Transcript to be Provided to Witness.* The deposition officer must provide the original deposition transcript to the witness for examination and signature. If the witness is represented by an attorney at the deposition, the deposition officer must provide the transcript to the attorney instead of the witness.

(b) *Changes by Witness; Signature.* The witness may change responses as reflected in the deposition transcript by indicating the desired changes, in writing, on a separate sheet of paper, together with a statement of the reasons for making the changes. No erasures or obliterations of any kind may be made to the original deposition transcript. The witness must then sign the transcript under oath and return it to the deposition officer. If the witness does not return the transcript to the deposition officer within 20 days of the date the transcript was provided to the witness or the witness's attorney, the witness may be deemed to have waived the right to make the changes.

(c) *Exceptions.* The requirements of presentation and signature under this subdivision do not apply:

(1) if the witness and all parties waive the signature requirement;

(2) to depositions on written questions; or

(3) to nonstenographic recordings of oral depositions.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

**203.2. Certification**

The deposition officer must file with the court, serve on all parties, and attach as part of the deposition transcript or nonstenographic recording of an oral deposition a certificate duly sworn by the officer stating:

(a) that the witness was duly sworn by the officer and that the transcript or nonstenographic recording of the oral deposition is a true record of the testimony given by the witness;

(b) that the deposition transcript, if any, was submitted to the witness or to the attorney for the witness for examination and signature, the date on which the transcript was submitted, whether the witness returned the transcript, and if so, the date on which it was returned.

(c) that changes, if any, made by the witness are attached to the deposition transcript;

(d) that the deposition officer delivered the deposition transcript or nonstenographic recording of an oral deposition in accordance with Rule 203.3;

(e) the amount of time used by each party at the deposition;

(f) the amount of the deposition officer's charges for preparing the original deposition transcript, which the clerk of the court must tax as costs; and

(g) that a copy of the certificate was served on all parties and the date of service.

Added Aug. 5, 1998 and Nov. 9, 1998, eff. Jan. 1, 1999.

**203.3. Delivery**

(a) *Endorsement; To Whom Delivered.* The deposition officer must endorse the title of the action and "Deposition of (name of witness)" on the original deposition transcript (or a copy, if the original was not returned) or the original nonstenographic recording of an oral deposition, and must return:

(1) the transcript to the party who asked the first question appearing in the transcript, or

(2) the recording to the party who requested it.

(b) *Notice.* The deposition officer must serve notice of delivery on all other parties.

(c) *Inspection and Copying; Copies.* The party receiving the original deposition transcript or nonstenographic recording must make it available upon

# Request for Assignment of Judge

Second Administrative Judicial Region of Texas

Honorable Olen Underwood, Presiding

Please return to Nathan Jensen by Fax (936) 538-8167 or email to [njensen@co.montgomery.tx.us](mailto:njensen@co.montgomery.tx.us)

REQUESTING JUDGE (Elected Judge):

Edwards

Court:

9th

County:

Montgomery

Date(s) Needed:

VISITING JUDGE REQUESTED:

(NAME)

Contacted  YES  NO

REGIONAL OFFICE TO ASSIGN VISITING JUDGE

(If a specific VISITING JUDGE is not requested, the Regional office will assign VISITING JUDGE by rotation, if possible)

Type of docket (CR, CV, FAMILY, JURY, NON JURY, GENERAL DOCKET)

OR

Request for Judge to hear specific case: Cause Number:

09-11-11474

Style of Case:

McPeters vs. Barbara Adamick

Nature of Suit:

Estimated time to try case:

Attorney/Pro Se:

Address:

Phone:

Fax:

Attorney/Pro Se:

Address:

Phone:

Fax:

Please attach list of any additional parties.

REASON FOR REQUEST (Please check one)

Capital Case

Cause No. \_\_\_\_\_

Style \_\_\_\_\_

Voluntary Recusal (explain) \_\_\_\_\_

Attorney Contempt, Election Contest or Suit to Remove Local Official

Disqualification

Educational Responsibilities or Judicial Conference

Assistance with Heavy Docket

Ancillary Responsibilities

Vacation

Illness/Personal Emergency

Other \_\_\_\_\_

I, Barbara Gladden Adamick, do hereby certify 2 pages in Cause # 09-11-11474 as being a true and correct copy of the Original Record now on file in the District Clerk's Office of Montgomery County, Texas. CV

Witness My Official Seal of Office in Conroe, Texas  
On This The 21 Day of April, 2010

By: Ellen Blake Deputy

Signature of Judge or Coordinator

[Signature]

Date of request

12/28

Phone Number

7866

Fax Number

X 8381

2<sup>nd</sup> Administrative Judicial Region Use Only: Assignment # \_\_\_\_\_

Date sent \_\_\_\_\_

Updated Feb 2007

TRANSACTION REPORT

P. 01

DEC-08-2009 TUE 12:02 PM

FOR: MONTGOMERY CTY-9TH DIST 9367888381

SEND

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-08	12:01 PM	91936538816707088#	32"	1	FAX TX	OK	337	

TOTAL : 32S PAGES: 1

Request for Assignment of Judge

Second Administrative Judicial Region of Texas Honorable Olen Underwood, Presiding  
Please return to Nathan Jensen by Fax (936) 538-8167 or email to njensen@co.montgomery.tx.us

REQUESTING JUDGE (Elected Judge): Edwards  
Court: 9TH County: Montgomery  
Date(s) Needed: \_\_\_\_\_

VISITING JUDGE REQUESTED: \_\_\_\_\_ Contacted  YES  NO

REGIONAL OFFICE TO ASSIGN VISITING JUDGE  
(If a specific VISITING JUDGE is not requested, the Regional office will assign VISITING JUDGE by rotation, if possible)

Type of docket (CR, CV, FAMILY, JURY, NON JURY, GENERAL DOCKET) \_\_\_\_\_

OR  
Request for Judge to hear specific case: Cause Number: 09-11-11474

Style of Case: McPeters vs. Barbara Adamick

Nature of Suit: \_\_\_\_\_

Estimated time to try case: \_\_\_\_\_

Attorney/Pro Se: \_\_\_\_\_ Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Attorney/Pro Se: \_\_\_\_\_ Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Please attach list of any additional parties.

REASON FOR REQUEST (Please check one)

Capital Case Cause No. \_\_\_\_\_; Style \_\_\_\_\_

Voluntary Recusal (explain) \_\_\_\_\_

Attorney Contempt, Election Contest or Suit to Remove Local Official \_\_\_\_\_

Disqualification \_\_\_\_\_

Educational Responsibilities or Judicial Conference \_\_\_\_\_

Assistance with Heavy Docket  Ancillary Responsibilities

Vacation  Illness/Personal Emergency

Other \_\_\_\_\_

Signature of Judge or Coordinator: [Signature] Date of request: 12/8/09 Phone Number: 781-266-8381 Fax Number: X 8381

2nd Administrative Judicial Region Use Only: Assignment # \_\_\_\_\_ Date sent: \_\_\_\_\_ Updated Feb 2007

Certified as to certification on signature page

Your transaction has been successfully submitted to LexisNexis File & Serve. Your transaction information appears below. To print this information for your records, click anywhere on the transaction information, then click the browser Print button.

For a formatted copy of this information, obtain a [transaction report](#).  
To perform another transaction, click **Begin a New Transaction**.  
To exit File & Serve, click **Return to My File & Serve**.

**TIP:** Receive notifications of new Filing & Service activity that match your search criteria. Click on the Alerts tab.

### LexisNexis File & Serve Transaction Receipt

**Transaction ID:** 28299709  
**Submitted by:** Ellen Blakeway, TX Montgomery 410th District Court  
**Authorized by:** Barbara Gladden Adamick, TX Montgomery 410th District Court  
**Authorize and file on:** Dec 2 2009 9:14AM CST

**Court:** TX Montgomery 9th District Court  
**Division/Courtroom:** N/A  
**Case Class:** Civil  
**Case Type:** Other Civil  
**Case Number:** 09-11-11474  
**Case Name:** Mcpeters, Karen vs Barbara Gladden Adamick

**Transaction Option:** File Only  
**Billing Reference:**

#### Documents List

1 Document(s)

**Attached Document, 10 Pages Document ID: 25996191**

[PDF Format](#) | [Original Format](#)

<b>Document Type:</b> Petition	<b>Access:</b> Public	<b>Statutory Fee:</b> \$0.00	<b>Linked:</b>
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#### Document title:

PETITION TO INVESTIGATE POTENTIAL CLAIMS PURSUANT TO TEX. R. CIV. P. 202 AND ORDER ALLOWING DEPOSITION TO INVESTIGATE POTENTIAL CLAIMS PURSUANT TO TEX. R. CIV. P. 202 CONVENTIONALLY FILED NOVEMBER 24, 2009

[Expand All](#)

[Sending Parties \(1\)](#)

[Recipients \(0\)](#)

[Service List \(0\)](#)

**Delivery Option Party Party Type Attorney Firm Attorney Type Method**  
No selections made.

[Additional Recipients \(0\)](#)

[Case Parties](#)

I, Barbara Gladden Adamick, do hereby  
Certify 1 pages in Cause # 09-11-11474  
as being a true and correct copy of the *CV*  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.

Witness My Official Seal of Office in Conroe, Texas  
On This The 21 Day of April, 2010

By: Ellen Blakeway Deputy

[Begin a New Transaction](#)

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[Clerk Review this Transaction](#)



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RECEIVED AND FILED  
FOR RECORD

At \_\_\_\_\_ O'clock \_\_\_\_\_ M.

FEB 10 2003

Cause No. 09-11-11474 CV

9<sup>th</sup> JUDICIAL DISTRICT COURT  
MONTGOMERY COUNTY, TEXAS

BARBARA GLADDEN ADAMICK  
District Clerk  
MONTGOMERY COUNTY, TEXAS  
By \_\_\_\_\_ Deputy

### ORDER REGARDING E-FILE DESIGNATION AND LIVE DATE

As of January 1, 2000, all civil cases filed in the 9th District Court of Montgomery County will be electronically filed as described and governed by the Local Rules Regarding Electronic Filing. Consequently, the Court, sua sponte, hereby designates the cause number, \_\_\_\_\_, 09-11-11474 CV in the Ninth District Court of Montgomery County, Texas, as such an e-file case. Accordingly, the Court orders that in this cause the District Clerk implement fully the Local Rule Regarding Electronic Filing, approved by the Supreme Court on September 16, 1997. A copy of the Local Rule Regarding Electronic Filing can be obtained in the office of Judge Edwards or the Montgomery County District Clerk's Office.

**What Must be Filed Electronically.** No pleadings or party-generated documents may be filed in paper form, but must be filed electronically through the e-file system, unless a document meets one of the exceptions named below.

**All answers must be filed electronically.** Answers filed in paper form will not be accepted.

**Documents That Need Not be Filed Electronically.** Documents may still be filed conventionally if 1) a party has leave of Court to do so, 2) the document is the Original Petition or a Return of Service, or 3) the document is an exhibit, appendix, or "image" document exceeding 50 pages in length (see explanation below). Actions brought by the State of Texas or Child Protective Services as well as Adoption Actions are exempt from e-filing.

**Exhibits.** Original exhibits to documents filed electronically must be "scanned in" and filed electronically as well if the *exhibits* number less than fifty pages. If the exhibits total over fifty pages in length, they may be **marked clearly** as to which motion they pertain and filed with the District Clerk.

A party wishing to file voluminous exhibits conventionally should 1) electronically file a notice indicating that there are conventional "paper" exhibits on file in the District Clerk's Office, 2) file the exhibits in the District Clerk's Office, and 3) serve other parties with copies of the conventionally-filed exhibits as normally required by the Texas Rule of Civil Procedure.

Please note that according to the Local Rule for E-filing, any original signature page on affidavits, verifications, or other sworn documents that is not filed with the Clerk in paper form "shall be maintained and made available, upon reasonable notice and during business hours, to other counsel and to the court."

"Certified as to certification  
on signature page"

**ROBERT L. MAYS, JR.**

**ATTORNEY AT LAW**

8626 TESORO DRIVE, SUITE 820  
PETROLEUM TOWERS II  
SAN ANTONIO, TEXAS 78217

PHONE: 210-657-7772

FAX: 210-657-7780

November 20, 2009

09-11-11474-CV

9th

Barbara Gladden Adamick  
Montgomery County District Clerk  
301 N. Main, Suite 103  
Conroe, Texas 77301

Re: Enclosed Petition to Investigate Potential Claims  
Pursuant to *Tex. R. Civ. P. 202*

Dear Ms. Adamick:

Please file the enclosed Petition. I have enclosed a check  
fee. I do not need a citation at this time. I have enclosed a self-ad  
envelope for you to mail me a conformed copy of the filed petition

If you have any questions, please feel free to give me a call

RECEIVED AND FILED  
FOR RECORD  
At \_\_\_\_\_ O'clock \_\_\_\_\_ M.  
NOV 24 2009  
BARBARA GLADDEN ADAMICK  
District Clerk  
MONTGOMERY COUNTY, TEXAS  
By \_\_\_\_\_ Deputy

Montgomery County  
District Clerk  
From the Office of  
Barbara Adamick  
District Clerk  
Conroe, TX 77301

Since

Robert

09-11-11474-CV Filed on: 11.25.09  
KAREN MCPETERS

VS.

BARBARA GLADDEN ADAMICK

09-11-11474-CV Filed on: 11.25.09  
KAREN MCPETERS

VS.

BARBARA GLADDEN ADAMICK

09-11-11474-CV Filed on: 11.25.09  
KAREN MCPETERS

VS.

BARBARA GLADDEN ADAMICK

I, Barbara Gladden Adamick, do hereby  
Certify 1 pages in Cause # 09-11-11474  
as being a true and correct copy of the  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.

Witness My Official Seal of Office in Conroe, Texas  
On this 21 Day of April 2010

*Allen B. Cooper*  
Deputy

Civil  
Date : 11-25-2009  
Time : 10:05AM  
Cause : 09-11-11474  
Style : MCPETERS,K vs. ADAMICK,BA  
Receipt: 282118  
Trans. No.: 1  
Paid \$237.00

Pymt Type: CHECK  
Check #: 5869  
Tendered: \$237.00  
Chg. Due: \$0.00  
CIVIL SUIT \$237.00  
Remitter: MAYS JR, ROBERT L.  
8626 TESORO DRIVE, SUITE B2  
SAN ANTONIO, TX 78217  
Operator: Joyce Collins

Clerk's Check List  
Regarding Notice of Court's Standing Orders

Cause No: 09-11-11474-CV

Court: 9th

1. Family Outreach Packet

Date and Initial

- Copy given to party at time of filing  
(Included copy for respondent/waiver divorce)
- Copy mailed to petitioner/petitioner's attorney  
(Included copy for respondent/waiver divorce)
- Copy attached to citation for respondent

2. 9th District Court E-file Packet

(Includes order regarding E-file designation and live date, order regarding electronic filing dated Feb. 10, 2003)

410th District Court E-file Packet

(Includes order regarding E-file designation and live date, order regarding electronic filing dated Dec. 12, 2006)

- Copy given to party at time of filing  
(Included copy for respondent /attached to Plff/Atty's copy of petition)
- 11-25-09  Copy mailed to petitioner/petitioner's attorney by PR P7  
(Included copy for respondent /attached to Plff/Atty's copy of petition)
- Copy attached to citation for respondent

3. Order/Packet Regarding Mediation for the following:

(CCL #1, CCL #2, CCL #4, 221<sup>st</sup> and 410<sup>th</sup> Courts)

Copy attached to citation for respondent/defendant Barbara Gladden Adamlak, do hereby

certify 1 pages in Cause # 09-11-11474  
as being a true and correct copy of the  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.

4. Child Support Packet

- Copy given to party at time of filing  
(Included copy for respondent/waiver divorce)
- Copy mailed to petitioner/petitioner's attorney  
(Included copy for respondent/waiver divorce)

Witness My Official Seal of Office in Conroe, Texas  
On this the 21 Day of April 2010

By [Signature] Deputy

5. Divorce Checklist  
for Pro Se Litigants

- Copy given to Plff at counter
- Copy mailed to Plff

6. TRO-COURTS STANDING ORDER

- Copy given at counter for Plff/Atty  
(copy for resp)
- Copy mailed to Plff/Atty  
(copy for resp)
- Copy attached by atty  
(for resp/plff)
- Copy attached to cit for resp





KAREN MCPETERS  
VS.

BARBARA GLADDEN ADAMICK

# 9TH DISTRICT COURT

Certified as to certification  
"pad annotations no  
signature page"

**E-FILE**



Multiple horizontal lines for text entry, currently blank.

MONTGOMERY COUNTY, TEXAS  
BARBARA GLADDEN ADAMICK  
DISTRICT CLERK

THESE ARE ORIGINAL COURT PAPERS.  
THEY MUST NOT BE REMOVED FROM THIS  
FOLDER OR TAKEN FROM THIS OFFICE.

**E-FILE**

**D I S T R I C T C L E R K**  
**R E T U R N**

**RETURN**  
**TO**  
**DISTRICT**  
**CLERK**

I, Barbara Gladden Adamick, do hereby  
Certify 2 pages in Cause # 09-11474 CW  
as being a true and correct copy of the  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.

Witness My Official Seal of Office in Conroe, Texas  
on this 21 Day of April, 2010  
Ellen Blaker Deputy



**PLAINTIFF ATTORNEY:**

ROBERT L. MAYS JR  
8626 TESORO DRIVE, SUITE 820  
SAN ANTONIO TX 78217  
210-657-7772

**DEFENSE ATTORNEY:**

I, Barbara Gladden Adamick, do hereby  
Certify 1 pages in Cause # 09-11-11474  
as being a true and correct copy of the  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.

Witness My Official Seal of Office in Conroe, Texas  
On This 21 Day of April 2010

By: Ellen Blakeney, Deputy

**INTERVENOR'S ATTORNEY**

09-11-11474-CV Filed on: 11.25.09  
KAREN MOPELTERS  
VS.  
BARBARA GLADDEN ADAMICK

09 CV 11474