

# Chapter 2

## Pleadings

---

## 2-000

### COMMENTARY—PLEADINGS

#### *Texas*

#### 2-001 Family and Medical Leave Act State Court Petition

Why file a federal action in state court? Sometimes the defendant, for whatever reason fails to remove it to federal court. State court means a 12 person jury with broader voir dire, rather than federal court's 6 person jury with limited voir dire. Scheduling is also generally more flexible in state court, whereas federal cases have specific scheduling deadlines in place. Since state and federal courts share concurrent jurisdiction in most employment actions, consider the advantages state court may offer and file the case there when appropriate.

This is an example of a claim against a school district for violations of the Family Medical Leave Act (FMLA). The pleading starts with a section addressing jurisdiction and venue, then provides background facts pertinent to the claims, and finally sets forth each claim and any specific facts relating to such claims. Note that in state court, at the beginning of the pleading you are required to state the case level (1, 2, or 3) which will implicate specific discovery rules. Most cases should be plead as Level 2, with more complex cases as Level 3, and the simplest cases as Level 1.

#### 2-002 Whistleblower Petition

This is an example of a state court whistleblower action brought under the Texas Government Code, along with other common law retaliation claims.

#### 2-003 Defense Answer to Whistleblower Petition

Texas follows a due order of pleadings practice. This means that any challenge to personal jurisdiction (special appearance) or venue must be stated first in the answer, or it is waived. The answer should be subject to those stated challenges.

In Texas, unlike federal court, a defendant may simply file a general denial, which puts the plaintiff to his/her proof of the claims alleged. Additionally, affirmative defenses or special denials of plead averments should be plead.

Challenges to defects or deficiencies in pleadings are raised through special exceptions. If the plaintiff does not agree to replead, then the matter needs to be set for hearing and determined by the court. If sustained, the plaintiff is ordered to replead within a certain time, or the petition will be dismissed. If the deficiency is incurable, then the court has the power to dismiss the action.

#### 2-004 Plea to Jurisdiction

A plea to the jurisdiction is a dilatory plea which challenges the court's ability to maintain jurisdiction of the action typically because of a defect such as failure to file within a statutory deadline that is jurisdictional. For example, whistleblower actions must be filed within 90 days of any adverse action. The plea is not to determine the merits of the claim, but is generally resolved through a court hearing where evidence is presented.

#### 2-005 Notice of Vacation—District Court

This a required notice to ensure that trial settings, court hearings, and discovery are not set during planned vacations.

#### 2-006 Notice of Vacation—Court of Appeals

This notice is similar to the notice provided to the District Court and serves the same purposes.

#### 2-007 Notice of Firm Change

This is typically filed when there is either a change of firm name or a new firm is substituted and appears as new counsel.

### ***Federal***

#### 2-008 Counterclaim Asserting Racial Discrimination and Retaliation

Unlike state practice, federal court requires the answering party to either admit or deny each of the allegations in the complaint. The counterclaim's structure is similar to a federal or state complaint. In this case, the counterclaim asserts discrimination and retaliation claims in a termination of franchise dispute.

#### 2-009 Answer to Counterclaim with Affirmative Defenses

This is the answer filed to the counterclaim in 2-007, with affirmative defenses.

#### 2-010 Answer to Removed State Court Petition (FMLA Claim)

This is the answer to the state court FMLA claim after it was removed to federal court by the defendant, who filed a general denial in state court before removing the case. In addition to admitting or denying the allegations in the original complaint, the answer also asserts affirmative defenses.

#### 2-011 Joint Stipulation of Dismissal

This form can be used to dismiss a case after it is settled. The plaintiff can also file a motion to dismiss as an alternate method.

#### 2-012 Agreed Order of Dismissal

This form is submitted to the court for entry. Be sure to check local rules about the form of the order. For example, the Eastern District of Texas does not want a judge's signature line in the proposed order.

2-001

FAMILY AND MEDICAL LEAVE ACT STATE COURT PETITION

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

[NAME OF PLAINTIFF]	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	[NAME OF COUNTY], TEXAS
	§	
[NAME OF DEFENDANT]	§	
	§	
Defendant.	§	[ORDINAL NUMBER] DISTRICT COURT
	§	

**PLAINTIFF’S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, [NAME OF PLAINTIFF] (“Plaintiff”), complaining of [NAME OF DEFENDANT] (“Defendant”), and for cause of action would show:

**Prefatory Statement**

**DISCOVERY CONTROL PLAN: LEVEL 2**

Plaintiff intends to conduct discovery in this matter under Level 2, Rule 190.2, Tex. R. Civ. P.

**I. Parties, Jurisdiction and Venue**

1. Plaintiff is an individual residing in [NAME OF CITY], Texas.
2. Defendant [NAME OF DEFENDANT] is a [PUBLIC EDUCATIONAL INSTITUTION] and the former employer of Plaintiff. Defendant conducts its business and operations in [NAME OF COUNTY], Texas. Defendant may be served with process in this matter by serving its [NAME OF POSITION IN DEFENDANT’S ORGANIZATION], [NAME OF DEFENDANT’S EMPLOYEE], at [DEFENDANT’S ADDRESS].

3. Venue of this matter is proper in [NAME OF COUNTY], Texas pursuant to Section 15.001, Texas Civil Practice & Remedies Code, as Defendant has its principal office in [NAME OF COUNTY], Texas.

**II.**  
**BACKGROUND FACTS**

4. Plaintiff was employed by [NAME OF DEFENDANT] as a [NAME OF POSITION] in the [NAME OF DEPARTMENT IN DEFENDANT’S ORGANIZATION]. Plaintiff worked at [NAME OF DEFENDANT] for approximately [NUMBER] years prior to requesting leave under the Family and Medical Leave Act (“FMLA”). Plaintiff initially requested a short leave of absence, which was granted, and subsequently asked for a second leave when [he/she] suffered a relapse of the medical conditions that left [him/her] unable to work. Plaintiff’s supervisor, [NAME OF SUPERVISOR], was unhappy with Plaintiff’s requests for leave and subsequently terminated [him/her] for “job abandonment” three days after Plaintiff’s second request for leave. [NAME OF SUPERVISOR] subsequently misrepresented the nature of [his/her] communications with Plaintiff to make it appear that [he/she] was justified for terminating Plaintiff for job abandonment.

5. Plaintiff’s medical condition can be traced to an event that occurred on [DATE], when Plaintiff’s close personal friend, [NAME OF PLAINTIFF’S FRIEND], was shot and killed in [CITY], [STATE]. Plaintiff was deeply affected by this tragic event, and began to suffer from health conditions related to depression and anxiety. On [DATE], Plaintiff did not come into work. Plaintiff missed five days of work from [DATE] to [DATE]. During this period, Plaintiff called [his/her] supervisor, [NAME OF SUPERVISOR], every work day to inform [him/her] that [he/she] would not be coming in because [he/she] did not feel well.

6. On [DATE], Plaintiff was treated by physician [NAME OF DOCTOR #1]. Dr. [NAME OF DOCTOR #1] faxed a physician’s note to [NAME OF SUPERVISOR] which

said that Plaintiff would not be able to work until [DATE]. Plaintiff's absences prior to [DATE] were excused pursuant to a [NAME OF DEFENDANT] policy that provides for a limited number of days off for illness or personal reasons. After taking off the maximum number of days under this policy, Plaintiff requested an extended leave of absence pursuant to the FMLA.

7. Defendant employs [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] as a third-party administrator to handle employee requests for FMLA leave. On [DATE], pursuant to Defendant's FMLA policy, Plaintiff contacted [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] and requested FMLA leave from [DATE] through [DATE]. [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] began processing Plaintiff's request and notified [NAME OF SUPERVISOR] of Plaintiff's request for FMLA leave by using the [NAME OF DEFENDANT] Leave of Absence System ("LOA System").

8. On [DATE], [NAME OF SUPERVISOR] complained to [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] that [he/she] had not received any "official medical notification" from Plaintiff and asked how long it took to approve or deny the leave of absence. [He/She] was informed that Plaintiff had until [DATE] to submit the medical verification form required by [NAME OF DEFENDANT].

9. On [DATE], Plaintiff returned to work at [NAME OF DEFENDANT]. [NAME OF SUPERVISOR] was upset because [he/she] had returned before [his/her] request for FMLA leave had been approved by [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR]. [NAME OF SUPERVISOR] told Plaintiff to return home until [NAME OF DEFENDANT] received the paperwork from [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] that authorized [him/her] to return to work. [NAME OF SUPERVISOR] emailed [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] stating that Plaintiff had "returned to work

today after [NUMBER] weeks of absence and to date I have not received a single explanation as to the reason for [his/her] supposed medical leave of absence.”

10. On [DATE], [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] sent a letter to Plaintiff advising that [his/her] case would be closed if [his/her] medical verification was not received. Plaintiff was informed that [he/she] had five additional business days to provide the information once the notice is sent. Later, on [DATE], [NAME OF SUPERVISOR] emailed [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] asking “When is the final deadline for (Plaintiff) to present any documentation to substantiate/justify [his/her] absences and for (Defendant) to claim an unjustified job abandonment?”

11. On [DATE], Plaintiff returned to work and was told to stay home until [NAME OF DEFENDANT] received the paperwork from [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] that authorized [him/her] to return to work. [NAME OF SUPERVISOR] also told [him/her] that [he/she] should report to employee relations because termination proceedings against [him/her] had already begun.

12. On [DATE], Plaintiff was examined by Dr. [NAME OF DOCTOR #2]. Dr. [NAME OF DOCTOR #2] diagnosed [him/her] as suffering from an acute grief/loss condition and recommended ongoing psychotherapy sessions to help alleviate [his/her] symptoms.

13. On [DATE], Plaintiff received a notice from [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] that [his/her] FMLA leave had been approved from [DATE] to [DATE]. Plaintiff was not cleared to return to work until [DATE], when [he/she] spoke with [NAME OF DEFENDANT'S DIRECTOR]. Plaintiff told [NAME OF DEFENDANT'S DIRECTOR] that [he/she] was not feeling well at that time and [NAME OF DEFENDANT'S DIRECTOR] sent [him/her] home to “start fresh” on [DATE].

14. On [DATE], Plaintiff was evaluated by a chiropractor who referred [him/her] to Dr. [NAME OF DOCTOR #3]. The earliest Plaintiff could schedule an appointment with Dr. [NAME OF DOCTOR #3] was [DATE].

15. Plaintiff knew [he/she] would be requesting a second leave of absence and followed the same procedures required of [him/her] during [his/her] first leave. First, [he/she] called [NAME OF SUPERVISOR] to let [him/her] know that [he/she] would not be able to come to work due to health problems. This call was mentioned in an email sent by [NAME OF SUPERVISOR] to [NAME OF DEFENDANT'S DIRECTOR] on [DATE], in which [NAME OF SUPERVISOR] stated that Plaintiff had called [him/her] "**as usual**" to inform [him/her] that [he/she] was not going to be able to come to work. Later that morning, Plaintiff contacted [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] and requested another leave of absence. As part of the process, [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] notified [NAME OF SUPERVISOR] of Plaintiff's pending request through the LOA System.

16. Plaintiff was subsequently treated by [NAME OF DOCTOR #3] for pain and stress management on [DATE]. [NAME OF DOCTOR #3] suggested [he/she] take a medical leave of absence until [DATE], and also prescribed pain medication and recommended additional treatment two or three times per week for pain and stress management.

17. [NAME OF SUPERVISOR] acted quickly to terminate Plaintiff after [he/she] requested a second leave of absence. On [DATE] and [DATE], [NAME OF SUPERVISOR] wrote to [NAME OF DEFENDANT'S DIRECTOR] that [he/she] had not been contacted by Plaintiff about missing work, despite [his/her] communications with Plaintiff on the morning of [DATE] and the notification [he/she] received from [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] informing [him/her] of Plaintiff's request for FMLA leave.

Despite [his/her] comments to the contrary, [NAME OF SUPERVISOR] did not try to contact Plaintiff prior to recommending [his/her] termination for job abandonment.

18. On [DATE], [NAME OF SUPERVISOR] wrote to [NAME OF DEFENDANT'S DIRECTOR] that "today is the deadline to start the process of job abandonment (for Plaintiff)," an apparent reference to a [NAME OF DEFENDANT] policy that would allow [him/her] to terminate an employee for job abandonment after three unexcused absences. [NAME OF SUPERVISOR] proceeded to ask [NAME OF DEFENDANT'S DIRECTOR] which internal documents [he/she] needed to sign to terminate Plaintiff for job abandonment.

19. Plaintiff was unaware of [his/her] impending termination and proceeded to supply [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] with the appropriate forms and documents they needed to approve [his/her] request for FMLA leave. On [DATE] at [TIME], [NAME OF DOCTOR #3]'s office faxed [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] a health care provider form at the direction of Plaintiff. Later that day, [NAME OF SUPERVISOR] completed a Support Employee Job Abandonment Report ("Report") and sent a memo to [NAME OF DEFENDANT'S DIRECTOR] requesting that Plaintiff be terminated for cause. [NAME OF SUPERVISOR] checked a box on the Report entitled "Employee Returning from leave, "NO SHOW," and in the portion that asked for efforts by the supervisor to determine the reason for the employee's absence, [he/she] wrote "Multiple phone messages for the last 7 weeks."

20. On [DATE], Plaintiff received a notice from [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] that [his/her] request for FMLA leave from [DATE] to [DATE] had been approved. Shortly after approving Plaintiff's request for FMLA leave, [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] was informed by [NAME OF DEFENDANT] personnel that Plaintiff was about to be discharged for job abandonment.

[NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] subsequently reversed their previous approval of Plaintiff's request for FMLA leave in a letter dated [DATE].

21. On [DATE], Defendant placed Plaintiff on unpaid administrative leave pending a request for a hearing. Plaintiff exhausted [his/her] administrative remedies through Defendant and was ultimately terminated near the end of [MONTH] [YEAR].

### **III. INTERFERENCE**

22. Paragraphs 1-22 are incorporated herein by reference as if set forth verbatim.

23. To protect the prescriptive rights of eligible employees, the FMLA makes it "unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise," any substantive FMLA right. 29 § U.S.C. 2615(a)(1); *see Haley v. Alliance Compressor LLC*, 391 F.3d 644, 649 (5th Cir. 2004). When proving a violation of an employee's prescriptive rights, the subjective intent of the employer is irrelevant. The issue is simply whether the employer provided its employee the entitlements set forth in the FMLA. *Hurt v. Ecolab, Inc.*, 2006 U.S. Dist. LEXIS 32373 (N.D. Tex. 2006); *Wood v. Gateway, Inc.*, 2003 U.S. Dist. LEXIS 22576, at \*7 (N.D. Tex. 2003).

24. Defendant improperly denied Plaintiff's request for leave under the FMLA. The FMLA allows an eligible employee up to twelve work weeks of unpaid, job-protected leave because a serious health condition prevents the employee from performing the essential functions of [his/her] job. 29 U.S.C. §§ 2612(a)(1), 2614(a)(1).

25. Plaintiff suffered from an assortment of emotional and physical conditions that prevented [him/her] from working. [He/She] suffered from anxiety, depression, headaches and severe back pain that required [him/her] to seek treatment from two physicians, a chiropractor, and a psychologist.

26. On [DATE], Dr. [NAME OF DOCTOR #1] wrote to Defendant that Plaintiff was unable to work from [DATE] until [DATE]. On [DATE], Plaintiff was treated by Dr. [NAME OF DOCTOR #2], who recommended a regimen of psychotherapy sessions. Plaintiff subsequently sought the advice of [NAME OF DOCTOR #3], who recommended that [he/she] take a leave of absence from [DATE] until [DATE], and diagnosed [him/her] with anxiety and cervical pain that required ongoing treatment for pain and stress management two to three times a week. [He/She] also described Plaintiff's condition as a "chronic condition requiring treatment" as defined by the FMLA.

27. Plaintiff was granted 10 days of FMLA leave from [DATE] to [DATE]. When [he/she] returned to work on [DATE], [NAME OF SUPERVISOR] told [him/her] to return home until [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] authorized [him/her] to return to work. Shortly after Plaintiff provided the requested information to Defendant, however, [he/she] suffered a relapse and was forced to ask for a second leave of absence. Plaintiff was supposed to return to work on [DATE]; however, [he/she] contacted [NAME OF SUPERVISOR] early that morning and informed [him/her] that [he/she] was still unable to work. Later that day, Plaintiff submitted another request for FMLA leave to [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR], which notified [NAME OF SUPERVISOR] that Plaintiff had requested a second leave of absence.

28. [NAME OF SUPERVISOR] was clearly upset by the prospect of Plaintiff taking a second leave of absence. This time, however, [he/she] moved quickly to dismiss Plaintiff for job abandonment only three days after Plaintiff's request.

29. To ensure that Plaintiff's termination would be approved by Defendant, [NAME OF SUPERVISOR] misrepresented several key facts on the paperwork [he/she] had to submit to [his/her] supervisor. For example, [NAME OF SUPERVISOR] wrote that the efforts to determine the reason for Plaintiff's absence included "Multiple phone messages for the last 7

weeks.” In truth, however, Plaintiff had been in constant contact with [NAME OF SUPERVISOR] during this time about [his/her] medical problems and inability to perform [his/her] job.

30. On [DATE], [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] granted Plaintiff’s second request for FMLA leave from [DATE] to [DATE]. Shortly thereafter, [NAME OF DEFENDANT] personnel, including [NAME OF SUPERVISOR], told [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] that Plaintiff’s FMLA leave should be denied because [he/she] had not contacted [NAME OF SUPERVISOR] according to [NAME OF DEFENDANT] policy and was about to be discharged from [his/her] position. Despite the fact that Plaintiff had followed [NAME OF DEFENDANT]’s FMLA Policy, [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] issued a second letter denying Plaintiff’s second request for leave. Defendant placed Plaintiff on unpaid administrative leave on [DATE]; [he/she] was ultimately discharged near the end of [MONTH] [YEAR].

31. Plaintiff followed Defendant’s written FMLA policy at all times relevant to this claim. Defendant violated the FMLA by interfering with [his/her] request for leave and by denying Plaintiff’s second request for leave after it had been approved by [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR].

32. Accordingly, Plaintiff seeks reinstatement of [his/her] position with full seniority and restoration of benefits, together with back pay, front pay, lost benefits, interest and attorneys’ fees and expenses. Plaintiff also seeks an additional amount as liquidated damages equal to the sum of [his/her] lost wages and interest as provided by 29 USCS § 2617(a)(1)(A)(iii).

#### **IV.** **RETALIATION**

33. Paragraphs 1-22 are incorporated herein by reference as if set forth verbatim.

34. To make a prima facie showing of retaliation under the FMLA, a plaintiff must show that: (1) [he/she] was protected under the FMLA, (2) [he/she] suffered an adverse employment decision; and (3) the adverse decision was made because [he/she] took FMLA leave. *Hunt v. Rapides Healthcare Sys., LLC*, 277 F.3d 757, 768 (5th Cir. 2001).

35. Plaintiff was protected under the FMLA as an employee with a serious medical condition that left [him/her] unable to perform the functions of [his/her] job. 29 U.S.C. §§ 2612(a)(1), 2614(a)(1). [He/She] suffered an adverse employment decision when [he/she] was placed on unpaid administrative leave and ultimately terminated in [MONTH] [YEAR].

36. Plaintiff was discharged because [his/her] supervisor, [NAME OF SUPERVISOR], was upset with [him/her] for requesting a second leave of absence from work. [NAME OF SUPERVISOR] made numerous inquiries to [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] about how [he/she] could terminate Plaintiff for job abandonment while Plaintiff was on FMLA leave. [NAME OF THIRD PARTY BENEFITS ADMINISTRATOR] consistently advised [NAME OF SUPERVISOR] not to terminate Plaintiff while [his/her] request for FMLA leave was pending.

37. As soon as Plaintiff applied for a second leave, however, [NAME OF SUPERVISOR] retaliated by recommending that [he/she] be terminated for job abandonment. Plaintiff followed Defendant's FMLA policy as well as other attendance policies in effect at [NAME OF DEFENDANT] at all times relevant to this complaint. [NAME OF SUPERVISOR]'s motivations for recommending Defendant's termination are clearly pretextual; Plaintiff was actually terminated in retaliation for requesting a second leave of absence pursuant to the FMLA.

38. Accordingly, Plaintiff seeks reinstatement of [his/her] position with full seniority and restoration of benefits, together with back pay, front pay, lost benefits, interest and attorneys'

fees and expenses. Plaintiff also seeks an additional amount as liquidated damages equal to the sum of [his/her] lost wages and interest as provided by 29 USCS § 2617(a)(1)(A)(iii).

**V.**  
**CLAIM FOR EXEMPLARY DAMAGES**

39. The conduct of Defendant detailed above was committed intentionally, with malice or with indifference to the substantial certainty that continuing harm and injury would be suffered by Plaintiff.

40. Plaintiff is entitled to and requests judgment against Defendant for exemplary damages in an amount to be determined by the trier of fact, not to exceed the amounts established by section 41.008(b), Tex. Civ. Prac. & Rem. Code.

**VI.**  
**CLAIM FOR ATTORNEYS' FEES AND EXPENSES**

41. Pursuant to the provisions of Chapter 21 of the Texas Labor Code, section 21.259, and section 107 of the FMLA, 29 USCS § 2617(a)(3), Plaintiff seeks recovery of [his/her] reasonable attorneys' fees and expenses incurred in the prosecution of this matter and any and all appeals therefrom.

**VII.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff [NAME OF PLAINTIFF] prays that Defendant [NAME OF DEFENDANT] be cited to appear and answer herein, and that upon final hearing hereof, [he/she] recover judgment against Defendant for [his/her] actual and exemplary damages as sought herein, together with prejudgment and post-judgment interest at the maximum rate allowed by law, reasonable attorneys' fees and expenses, costs of Court, reinstatement of [his/her] position as a [NAME OF POSITION] at Defendant with full seniority and restoration of benefits, and such other and further relief, at law or in equity, to which [he/she] may be justly entitled.

Respectfully Submitted,

By:  
[NAME OF PLAINTIFF'S  
ATTORNEY]  
STATE BAR NO. [NUMBER]

[NAME OF FIRM]  
[FIRM STREET ADDRESS]  
Tel.:  
Fax:  
Email:

ATTORNEY FOR PLAINTIFF  
[NAME OF PLAINTIFF]

2-002

**WHISTLEBLOWER PETITION**

CAUSE NO. \_\_\_\_\_

[NAME OF PLAINTIFF],  
*Plaintiff,*

vs.

[NAME OF DEFENDANT]  
*Defendant.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT  
  
OF [NAME OF COUNTY], TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

---

**ORIGINAL PETITION**

---

TO THE HONORABLE COURT:

COMES NOW, [NAME OF PLAINTIFF] (“Plaintiff”), complaining of [NAME OF DEFENDANT] (“Defendant”), and for cause of action would show:

**PREFATORY STATEMENT**

**DISCOVERY CONTROL PLAN: LEVEL 3**

Plaintiff intends to conduct discovery in this matter under Level 3, Rule 190.4, Tex. R. Civ. P.

**I.**

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff is an individual residing in [NAME OF COUNTY], Texas.
2. Defendant is [a/an] [TYPE OF ENTITY] and the former employer of Plaintiff.  
  
Defendant conducts its business and operations in [NAME OF COUNTY], Texas.