

FIGHTING
identity theft

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id

**Court Order
Application**

ID Theft Victim's Kit

Instructions for Preparing & Filing the Application for a Court Order

Before you begin to fill out the court order application, take time to review and copy it. Also, it will be much easier for you to fill out the application if you first gather relevant documents such as copies of identity theft complaints that you have filed and information reflecting account numbers, transactions and events in which you were a victim of identity theft. For your convenience, each of the following instructions corresponds to a specific section or paragraph of the court order application:

Instruction for filling out the top of the application:

At the top of the application, under the "IN THE MATTER OF" heading, fill in your full name since you are the identity theft victim who is filing this application. Also, fill in the name of the county where you live since that is where you will be filing this application. To file your application, you will go to the office of the district clerk at your county courthouse. There the clerk will give you a "Cause number" and "Judicial district" numbers to fill in the remaining blanks.

Instruction for paragraph 1:

Enter your full name.

Instruction for paragraph 2:

In this paragraph you are telling the court which portions of your personal information (for example, Social Security or driver's license numbers) were used without your approval. Check each and every box that applies to your circumstances.

Instruction for paragraph 3:

In this paragraph you are providing information to the court regarding whether you filed an identity theft complaint with a law enforcement agency and telling the court where and when you filed such a complaint or complaints. Remember that the judge will later have a hearing to consider your application and at that time you will need to present a copy of each such complaint to the judge.

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Instruction for paragraph 4:

In this paragraph you are providing information to the court regarding the status of any identity theft criminal complaints you have filed. If you do not know what has happened as a result of your filing a complaint, you may need to contact the law enforcement agency where you filed to find out what has happened as a result of your complaint, including whether or not they have been able to identify the person or persons who used your information. Based on what they tell you, you will check ONLY the boxes that fit your circumstances. Also, fill in the date that law enforcement provided you with the information that you include in this paragraph.

Instruction for paragraph 5:

At the beginning of this paragraph, enter the date that you fill out the application. In this paragraph, you are telling the court about each type of unauthorized transaction in which your name or other information was used without your authorization (for example, an unauthorized transaction establishing a utility account using your name). Only check those boxes which generally reflect transactions or events in which your information was used without your permission. If your information was used in a way that is not already described, there are blank spaces provided at the end of paragraph five where you can explain specifics of what happened in your case.



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Instruction for paragraphs 6,7,8,& 9:

Read these paragraphs carefully. They explain that this application does not include specific information (such as your account numbers) in order to protect the confidentiality of that information but that you understand that when the court holds a hearing on your application, you will be prepared to present evidence of each of the unauthorized transactions which you listed in this application. Because the law requires the court to enter specific findings, for each account or transaction that you checked off in paragraph five, you will need to have the following information and related documents to present when you appear before the court: (1) the name of the institution, merchant or business where information was used without your authorization; (2) any relevant account numbers; (3) the dollar amount of the accounts or transactions affected; (4) the date or dates that your information was used without your authorization; and (5) information you may have (if any) identifying the person or persons who used your personal identifying information.

Instruction for the signature block at the end:

You must sign this application and include your printed name, complete mailing address and telephone number. Be sure to provide a correct address and telephone listing because this is how the court's staff will contact you. Failure to accept delivery or pick up mail addressed to you is generally treated by the courts as if you received that mail.



CAUSE NO. _____

IN THE MATTER OF

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§
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§
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IN THE DISTRICT COURT OF

_____ COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PROPOSED
ORDER DECLARING A VICTIM OF IDENTITY THEFT

On _____ (date), this Court held a hearing to consider the Application Requesting Declaration That Applicant Is a Victim of Identity Theft filed by _____ (hereafter “Applicant”). Notice of this hearing was provided to the Applicant who appeared and represented himself [or] was represented by his attorney of record.

FINDINGS OF THE COURT

After giving due notice of this hearing and considering the application filed in this matter together with all the evidence submitted at such hearing, the Court finds: (1) that all persons entitled to notice of this hearing were properly cited; (2) that it has jurisdiction of this matter; (3) that all legal requirements for issuing this Order Declaring that Applicant is a Victim of Identity Theft have been met; (4) that a preponderance of the evidence demonstrates that applicant has been injured by a violation of Section 521.051, Tex. Bus & Comm. Code (Vernon 2009) or is a victim of identify theft resulting from an offense under Section 32.51 of the Texas Penal Code; and (5) this Court maintains jurisdiction of this matter and at any time may vacate this order if the court finds that the application filed or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.

PURPOSE OF ORDER

The Court hereby enters this Order declaring Applicant has been injured by a violation or violations of Section 521.051, Tex. Bus & Comm. Code (Vernon 2009) or is a victim of identity theft from an offense or offenses under Section 32.51 of the Texas Penal Code. As provided by Section 521.101, Tex. Bus & Comm. Code (Vernon 2009) this order may be utilized by Applicant for any of the following purposes: (1) submitting a copy to a governmental entity or private business in order to correct any record of the entity or business that contains inaccurate or false information as a result of the violation or offense; (2) to prove that a financial transaction or account of the applicant was directly affected by a violation of Chapter 521, Tex. Bus & Comm. Code (Vernon 2009); (3) to prove that a financial transaction or account of the applicant was directly affected by an offense committed under Section 32.51 of the Texas Penal Code; and (4) for use in a civil proceeding brought by or against the applicant arising or resulting from a violation of Chapter 521, Tex. Bus & Comm. Code (Vernon 2009), including a proceeding to set aside a judgment obtained against the applicant.

EXHIBITS

With respect to each financial account or transaction reviewed by the Court and found to be affected by the identity theft, the Court has made specific findings which are recited in Exhibits 1 through _____. The Court hereby orders that each of those exhibits shall be attached to this order and incorporated for all purposes. Each such exhibit references a separate violation or offense and as to each such violation or offense sets forth the following information as required by Section 521.101, Tex. Bus. & Comm. Code (Vernon 2009): (1) any known information identifying the violator or person charged with the offense; (2) the specific personal identifying information and any related document used to commit the alleged offense; and (3) information identifying any financial account

or transaction affected by the alleged violation or offense including the name of the financial institution, any relevant account numbers, the dollar amount of the account or transaction affected by the alleged violation or offense and the date of the alleged violation.

ORDER TO BE SEALED

As required by Section 521.101, Tex. Bus. & Comm Code (Vernon 2009), this Order, including Exhibits 1 through ____ is sealed because of the confidential nature of the information which it includes and may be unsealed only as provided by Section 521.101(4) and Section 521.101 Tex. Bus. & Comm Code (Vernon 2009). This Order incorporates each of the attached Exhibit(s) 1 through ____ in order to facilitate and enable the victim to furnish a copy of the Order and a copy of an incorporated Exhibit that identifies a separate violation or offense without disclosing confidential information that identifies another violation or offense and another governmental entity or private business in another incorporated Exhibit.

All other relief not hereby granted is denied.

Signed on _____, 20____.

DISTRICT JUDGE PRESIDING