

WHO DO YOU SUE?

You may not realize it, but suing the right person is not as easy as you think and is very important. Before you sue, you must determine the proper party against whom to file your claim. If your dispute is against a person in his or her individual capacity (not in a business capacity), simply file suit against individual. If your claim is against a business or legal entity, such as a sole proprietor, often a person working under a business name (“d/b/a”), partnership, association, limited liability Company, or corporation, then you should consider the following:

To sue a sole proprietor, sue the person running the business, no matter what name that person is using. Suppose that Sara Smith opens a dress shop called “The Dress Shop.” Who do you sue? The answer is Sara. To find out who “The Dress Shop” really is, check with the “assumed name” department in the county clerk’s office where the business has its principal office or with the Texas Secretary of State.

To sue a partnership, find the names of the partners. Under the law, each of the partners is responsible for the obligations of the partnership.

To sue an association, limited liability company, or corporation, sue the legal entity. To properly sue a legal entity such as a corporation you should first contact the Secretary of State and ask who the “agent for service” is so that you know who to serve with the papers. Call 512-463-5555 or email corpinfo@sos.state.tx.us and ask if the business is listed. If it is, ask for the proper name of the business and the name of the registered agent (or agent for service). This is the person you will serve with your legal papers.

Of course, as mentioned above, if your dispute is against a person in his or her individual capacity (not in a business capacity), simply sue the individual.

Once you have determined the proper party to sue, make sure to obtain their accurate full name and address. A small error in spelling or an incorrect address could cost you months when your papers cannot be served.