

## Instructions: Preparing Exhibits

The Identity Theft Enforcement and Protection Act requires the judge who holds the hearing to consider your application to make very specific findings regarding each financial account or transaction which your application states was affected by identity theft. You can use the Exhibit form to help you prepare for the hearing and to assist the judge in understanding your facts and entering these specific findings. Thus, you should make several copies of the blank exhibit form and fill one out for every instance of identity theft you will present to the court. To assist you in preparation, attach to each exhibit, copies of any documents which you will ask the judge to review. The judge will then be able to review each exhibit together with any documents and testimony you present regarding such exhibit and then will decide as to each exhibit whether you have been a victim of identity theft. If the judge agrees with you that a particular exhibit and the evidence you present demonstrate that you are a true victim of identity theft with respect to the particular matter represented in the Exhibit, the judge will attach that exhibit to any final order entered by the Court. The judge may decide to attach one, none or all of the exhibits you prepare to the final order. The judge may also elect to modify these exhibits as well as the proposed order that is part of this package to fit your specific circumstances. As required by state law, the Order and all of the Exhibits attached by the judge will be sealed and not open to the public.

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

IN THE MATTER OF

\_\_\_\_\_

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IN THE DISTRICT COURT OF

\_\_\_\_\_ COUNTY, TEXAS

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

EXHIBIT \_\_\_ of \_\_\_

**INCORPORATED TO ORDER DECLARING APPLICANT IS VICTIM OF IDENTITY THEFT**

On \_\_\_\_\_, the Court entered an Order Declaring that \_\_\_\_\_ is a victim of Identity Theft. With respect to each financial account or transaction reviewed by the Court and found to be affected by the identity theft, the Court has attached Exhibits 1 through \_\_\_\_\_ each of which includes specific findings regarding such account or transaction. Having a separate exhibit with specific findings regarding each affected account or transaction will enable the victim to utilize the Court’s order to correct inaccurate or false information by furnishing a copy of the Order and a copy of a specific exhibit that relates to a specific offense to a private business or governmental entity without disclosing other confidential information related to a different transaction or account.

1. In addition to the findings in the Order Declaring a Victim of Identity Theft, the Court, with respect to account number \_\_\_\_\_ finds the following:

(A) the account was established with the following financial institution or merchant:

\_\_\_\_\_.

(B) the dates of the alleged offense and the dollar amounts of the account or transaction were:

**Dates:**

**Dollar Amounts:**

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2. With respect to this account number and the offenses described above, the Court finds that as of the date of entry of this Order, there is no information identifying the violator or persons responsible for this identity theft. **[OR]**

With respect to this account number and the offenses described above, the Court finds that the following information is known identifying the violator or persons responsible for this identity theft:

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3. With respect to this account number and the offenses described above, the Court finds that the following personal identifying information of the victim was utilized to commit the identity theft:

\_\_\_ state drivers license # \_\_\_\_\_;

\_\_\_ social security number \_\_\_\_\_;

\_\_\_ birth certificate reflecting date and place of birth of victim;

\_\_\_ passport number \_\_\_\_\_;

- \_\_\_ other government issued identification: \_\_\_\_\_;
- \_\_\_ mother's maiden name \_\_\_\_\_;
- \_\_\_ victim's finger prints;
- \_\_\_ victim's voice prints;
- \_\_\_ victim's retina or iris image;
- \_\_\_ victims other unique biometric data: \_\_\_\_\_;
- \_\_\_ unique electronic identification number, address or routing code: \_\_\_\_\_.

4. With respect to this account number or transaction and the offenses described above, the Court finds that the following generally described documents were utilized to commit the identity theft:

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5. With respect to the identity theft described in this Exhibit \_\_\_\_, the Court also finds the following information which further describes the transaction affected by the offense:

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6. As provided by Section 48.202(d), TEX. BUS. & COMM. CODE (Vernon 2005), this Court's order and Exhibits may be used for the purpose of submitting it to a governmental entity or private business in order to:

(A) prove that a financial transaction or account of the victim was directly affected by a violation of Chapter 48, TEX. BUS. & COMM CODE (Vernon 2005) or the commission of an offense under Section 32.51, TEX. PENAL CODE; or

(B) correct any record of the entity or business that contains inaccurate or false information as a result of the violation or offense.

It may also be used in a civil proceeding brought by or against the applicant arising or resulting from a violation of Chapter 48, TEX. BUS. & COMM. CODE (Vernon 2005), including a proceeding to set aside a judgment obtained against the victim.

7. This Exhibit is attached and incorporated for all purposes to Order Declaring Applicant is a Victim of Identity Theft which was entered this \_\_\_ day of \_\_\_\_\_, 200\_\_.

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DISTRICT JUDGE PRESIDING

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

IN THE MATTER OF

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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 48.101, Tex. Bus & Comm. Code (Vernon 2005) 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 48.101, Tex. Bus & Comm. Code (Vernon 2005) 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 48.202, Tex. Bus & Comm. Code (Vernon 2005) 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 48, Tex. Bus & Comm. Code (Vernon 2005); (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 48, Tex. Bus & Comm. Code (Vernon 2005), 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 48.202(c), Tex. Bus. & Comm. Code (Vernon 2005): (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 48.202(d), Tex. Bus. & Comm Code (Vernon 2005), 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 48.202(d)(1) through (4) and Section 48.202(d)(f) Tex. Bus. & Comm Code (Vernon 2005). 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 \_\_\_\_\_, 200\_\_.

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DISTRICT JUDGE PRESIDING

**Texas Identity Theft Enforcement & Protection Act**  
**Texas Business & Commerce Code § 48.202**  
**Effective: September 01, 2005**

Chapter 48. Unauthorized Use of Identifying Information (Refs & Annos)

**§ 48.202. Court Order to Declare Individual a Victim of Identity Theft**

(a) A person who is injured by a violation of Section 48.101 or who has filed a criminal complaint alleging commission of an offense under Section 32.51, Penal Code, may file an application with a district court for the issuance of a court order declaring that the person is a victim of identity theft. A person may file an application under this section regardless of whether the person is able to identify each person who allegedly transferred or used the person's identifying information in an unlawful manner.

(b) A person is presumed to be a victim of identity theft under this section if the person charged with an offense under Section 32.51, Penal Code, is convicted of the offense.

(c) After notice and hearing, if the court is satisfied by a preponderance of the evidence that the applicant has been injured by a violation of Section 48.101 or is the victim of an offense under Section 32.51, Penal Code, the court shall enter an order containing:

(1) a declaration that the person filing the application is a victim of identity theft resulting from a violation of Section 48.101 or an offense under Section 32.51, Penal Code, as appropriate;

(2) any known information identifying the violator or person charged with the offense;

(3) the specific personal identifying information and any related document used to commit the alleged violation or offense; and

(4) information identifying any financial account or transaction affected by the alleged violation or offense, including:

(A) the name of the financial institution in which the account is established or of the merchant involved in the transaction, as appropriate;

(B) any relevant account numbers;

(C) the dollar amount of the account or transaction affected by the alleged violation or offense; and

(D) the date of the alleged violation or offense.

(d) An order rendered under this section must be sealed because of the confidential nature of the information required to be included in the order. The order may be opened and the order or a copy of the order may be released only:

(1) to the proper officials in a civil proceeding brought by or against the victim arising or resulting from a violation of this chapter, including a proceeding to set aside a judgment obtained against the victim;

(2) to the victim for the purpose of submitting the copy of the order to a governmental entity or private business to:

(A) prove that a financial transaction or account of the victim was directly affected by a violation of this chapter or the commission of an offense under Section 32.51, Penal Code; or

(B) correct any record of the entity or business that contains inaccurate or false information as a result of the violation or offense;

(3) on order of the judge; or

(4) as otherwise required or provided by law.

(e) A court at any time may vacate an order issued under this section if the court finds that the application or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.

(f) A copy of an order provided to a person under Subsection (d)(1) must remain sealed throughout and after the civil proceeding. Information contained in a copy of an order provided to a governmental entity or business under Subsection (d)(2) is confidential and may not be released to another person except as otherwise required or provided by law.