

Creating Civil Judgments and Orders

John Lackey
Staff Attorney
Texas Justice Court Training Center

1

Funded By A Grant From The Texas Court Of Criminal Appeals

© Copyright 2023. All rights reserved.

No part of this work may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying and recording, or by any information storage or retrieval system without prior written permission of the Texas Justice Court Training Center unless copying is expressly permitted by federal copyright law. Address inquiries to: Permissions, Texas Justice Court Training Center, 1701 Directors Blvd, Suite 530, Austin, TX, 78744.

2

Resources

www.tjctc.org

- Deskbooks, Forms, Charts and Checklists
- Recordings, Webinars, and Self-Pace Modules
- Legal Question Board and Legal Calls
- Self-Represented Litigants Packets

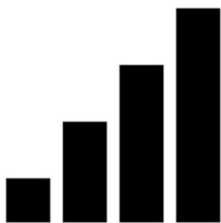
www.txcourts.gov

- Texas Rules of Civil Procedure (TRCP)

www.sll.texas.gov/legal-help

- Property Code and Civil Practice & Remedies Code

3



Poll



Breakout

Interactivity

4

What Should Be On Orders & Judgments In All Types Of Cases?

- Date signed/entered
- Judge's name & signature
- Cause number and court

5

Civil Judgments

Small Claims & Evictions

6

Requirements in Rule 505.1

- **Clearly state the determination of the rights of the parties in the case,**
- State who must pay the costs,
- Signed by the judge,
- Dated the date of the judge's signature, and
- *****2 New Requirements!*****

7

New Requirement as of May 2022

- Judgments must:

if it awards monetary damages, state: "If you are an individual (not a company), your money or property may be protected from being taken to pay this judgment. Find out more by visiting www.texaslawhelp.org/exempt-property. / *Si usted es una persona física (y no una compañía), su dinero o propiedad pudieran estar protegidos de ser embargados como pago de esta deuda decretada en juicio en contra suya. Obtenga mayor información visitando el sitio www.texaslawhelp.org/exempt-property.*"

- TJCTC's forms have incorporated this requirement.

8

Eviction Change—February 2023

- Judgments must:
 - In an eviction case:
 - ***“You may appeal this judgment by filing a bond, making a cash deposit, or filing a Statement of Inability to Afford Payment of Court Costs within 5 days after this judgment was signed. See Texas Rule of Civil Procedure 510.9(a).”***

9

Repair & Remedy Change—February 2023

- Judgments must:
 - In a repair and remedy case:
 - ***“You may appeal this judgment by filing a notice of appeal within 21 days after this judgment was signed. See Texas Rule of Civil Procedure 509.8.”***

10

Civil Change—February 2023

- Judgments must:
 - In a case other than an eviction or repair and remedy case:
 - ***“You may appeal this judgment by filing a bond, making a cash deposit, or filing a Statement of Inability to Afford Payment of Court Costs within 21 days after this judgment was signed. See Texas Rule of Civil Procedure 506.”***

11

Key Parts of a Small Claims Judgment

- Money or property awarded
- Court costs
- Attorney’s fees *(if applicable)*
- Post-judgment interest rate
- Pre-judgment interest rate *(if applicable)*

12

Personal Property Awarded

- Must order the plaintiff recover **specific articles** *if they can be found*
- If they can't be found – then the plaintiff shall recover their **value as assessed by the judge or jury** (plus interest)

Rule 505.1(e)

13

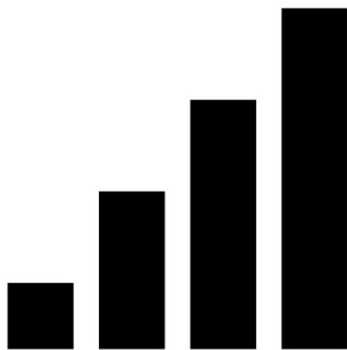
Court Costs

Judge **must** award costs allowed by law to the successful party, even if they do not specifically ask for them.

Rule 505.1(c)

14

Poll 1



Can private process server fees be assessed as court costs?

1. Yes
2. No

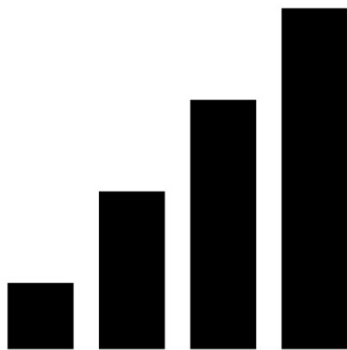
15

Attorney's Fees

If a party is awarded a judgment, they may also be awarded attorney's fees if there is a **statute** or an **agreement** between the parties that allows for attorney's fees.

16

Poll 2

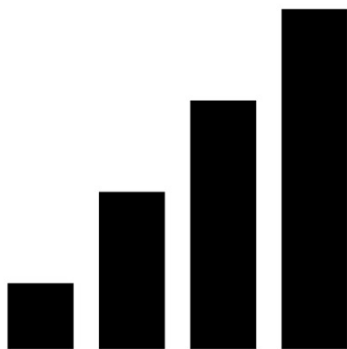


In which of these types of cases can attorney's fees be awarded?

1. Killed or injured stock
2. A sworn Account
3. An oral contract
4. All the above

17

Poll 3



Must a party be represented by an attorney to be awarded attorney's fees?

1. Yes
2. No

18

Attorney's Fees After *Rohrmoos* Case

- In 2019 the Texas Supreme Court provided clarification on how an attorney has to prove up attorney's fees in the case *Rohrmoos Venture v. UTSW DVA Healthcare*.
- **Old Method:** Lodestar Method = evidence of number of reasonable hours worked x a reasonable hourly rate

19

Attorney's Fees After *Rohrmoos* Case *continued*

New Method: Lodestar Method + Minimum sufficient evidence of:

- 1. particular services performed,
- 2. who performed services,
- 3. approximately when the services were performed,
- 4. the reasonable amount of time required to perform the services,
and
- 5. the reasonable hourly rate for each person performing such services

20

What Does this Mean for Justice Courts?

- Before, you might see an attorney testifying generally that they spent x hours and that they charge a reasonable rate of \$____.
- Now, you will likely see more details – instead of a simple affidavit or testimony it will be more complex and include the listed requirements from *Rohrmoos* or business records affidavits along with detailed time and billing records from the attorney

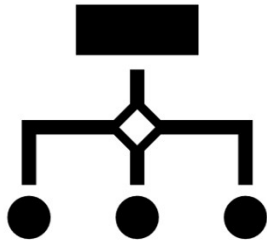
Rohrmoos Venture v. UTSW DVA Healthcare, LLP, 578 S.W.3d 469, 487 (Tex. 2019)

21

Post-Judgment Interest

- Every civil judgment **must** have a post-judgment interest rate
- The rate might be 0%
- More information in Chapter 7 of the Civil Deskbook

22



How The Finance Code Statutes Work

Take a look at the Post-Judgment Interest Flowchart

23

Pre-Judgment Interest

- There are 2 Types:
 - Statutory Pre-Judgment Interest – found in Finance Code 304.102.
 - Contractual Interest – agreed to in a contract.

24

Pre-Judgment Interest Details

- Applies in wrongful death, **personal injury**, and **property damage** cases
- Rate is the same as the post-judgment interest rate applicable at the time of judgment
- Cannot be recovered on an award of future damages
- Written settlement offers pause the accrual for the time period they are open if the judgment amount is equal to or less than the offer amount

25

What Not To Include In Civil Judgments



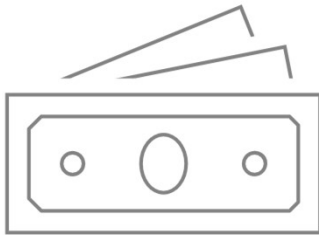
Payment plans



Unauthorized
Injunctive relief

26

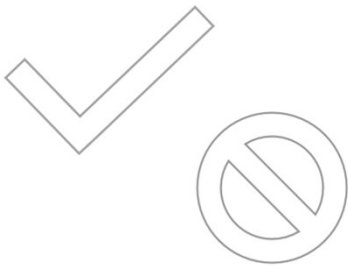
Payment Plans



- Parties are **free to negotiate and agree to payment plans**, but they should not be part of the judgment.
- →
- Remember, a JP only has the authority to order **\$\$** or **personal property** to the prevailing party!

27

Injunctive Relief



Only in special cases can a JP order a party to do or refrain from doing an action. There has to be a statute saying you can do it!

Ex: repair & remedy cases, driver's license hearings, tow hearings, and disposition of stolen property hearings.

Crawford v. Sandidge; Poe v. Ferguson; Kieschnick v. Martin

28

Administrative Orders

- You will also issue judgments or final orders for various administrative cases.
- The guidelines for those judgments are in the specific statutes that provide the procedures for those hearings.
- TJCTC has created special forms for these cases as well – coming soon to <https://www.tjctc.org/tjctc-resources/forms.html>

29

Questions

30

Let's Try a Few

Look at the forms in your handouts.

31

The Following Forms Are In Your Handouts:

Default Judgment
Without Hearing –
Debt Claim Case

Judgment for
Defendant – Bench
Trial

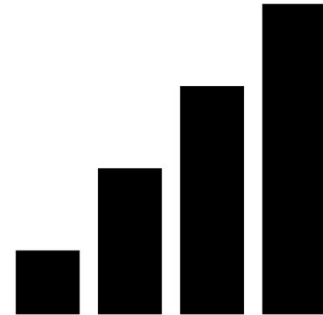
Judgment for
Plaintiff for
Recovery of
Specific Items –
Jury Trial

32

Poll 4 Default Judgment on a Debt Claim

You bring the judge a Debt Claim case file where the answer date passed yesterday without an answer. The Plaintiff failed to provide a SCRA Affidavit.

- 1. Can the court issue a default judgment?
- A. Yes
- B. No



33

Review Handout 2: Default Judgment on a Debt Claim

- Talk with your table. Discuss if this judgment is ready to be signed by the judge or is something missing. Be prepared to share your answers.



34

You just received the verdict in a jury trial.

- Jury Verdict
- We the jury find as follows:
- On Plaintiff's claim for conversion:
- We find in favor of Plaintiff and find that Plaintiff is entitled to the 2003 Ford Taurus SES Sedan Vin Number JN3MS37A9PW202929 valued at \$2540.00.
- Our verdict was unanimous.

- Foreperson of the Jury



35

Bench Trial

Rebecca Glisan vs.
Amber Myers

- Both parties appeared and represented themselves. Amber, the defendant convinced the judge that Rebecca brought a frivolous claim against her, and Rebecca did not have much evidence, so the judge decided to rule in favor of Amber.
- The case had the following court costs: \$54 filing fee + \$50 service fee.
- Fill in the appropriate form.

36

Questions

37

Thank You!

Remember to complete your evaluation!

38