

Civil Judgments

Judge Amy Tarno

Kaufman County JP, Pct. 2

Judge Nick Chu

Travis County JP, Pct. 5

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Resources

- TJCTC Website: www.tjctc.org

- Deskbooks
- Self-Paced Modules
- Legal Question Board
- Forms
- Recordings for Credit

Texas Statutes and Constitution

Texas Rules of Civil Procedure

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Agenda

Issuing the Judgment

What Goes in the Judgment?

What if you Make a Mistake?

More Info on Court Costs + Attorney's Fees

More Info on Interest


Let's Practice!

Questions?

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Issuing the Judgment

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After the
Jury
Verdict...

- A judgment from the Court must still be issued after the jury has decided.
- The verdict is the jury's finding of facts and application of the law to those facts.
- The judgment is a statement of final adjudication of the case.
- The judgment must be announced in open court.

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Options for Entering a judgment

- Render a judgment on the verdict (follow the jury's verdict).

or

- If the judgment is contrary to the law or the evidence, the judge may render a judgment notwithstanding the verdict (JNOV). This should rarely be done.

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Rendering a judgement on a verdict



The winner of the jury verdict is the winner of the judgment.



The amount of money in the verdict is the same as the amount of money in the judgment.

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Exception



- If both sides **agree** to submit the question of attorney's fees to the court, then after the jury verdict, the Court will need to conduct a hearing to award the winning party their attorney's fees (if applicable). Civil Practice and Remedies Code 38.004(2).
- If both sides **do not** agree to submit the question of attorney's fees to the court, then the jury should decide attorney's fees in their verdict.

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Judgment Notwithstanding the Verdict

- Should be done rarely; and if it is done, then you should allow the parties to argue to the Court why or why not a JNOV should be issued.
- Decisions on a JNOV:
 - Losing party should be the winner?
 - Changing the money judgment to reflect the evidence?
 - Example: Jury awarded \$10,000, but all the evidence says the debt is \$3,000.
- The standard for a JNOV isn't that **you** disagree with the jury; it is that there is no evidence upon which the jury could base one or more of its findings or the evidence was conclusive, and one party is entitled to judgment as a matter of law.

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Best Practices When Issuing Judgments

Try to issue the judgment and give the parties a copy of the judgment before they leave your courtroom.

Give a copy of the jury verdict to the parties along with the copy of the judgment.

If you have to mail a copy of the judgment, mail the copy of the judgment the same day you sign it.

Make sure you use the correct type of judgment for the case.

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What Goes in the Judgment?

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Requirements for All Civil Case Judgments

- ☐ Cause number and court.
- ☐ Clearly state the determination of the rights of the parties in the case.
- ☐ State who must pay the costs.
- ☐ Judge's name and signature.
- ☐ Have the date the judge signed the judgment.

TRCP 505.1(c)

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Requirements for All Civil Case Judgments – New Rules

TRCP 505.1(c)(5)

- ☐ **in an eviction case, it must state:** "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)."
- ☐ **in a case other than an eviction, it must state:** "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."

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Requirements for All Civil Case Judgments – New Rules (*continued*)

TRCP 505.1(c)(6)

❑ If a judgment awards monetary damages, it must 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.”

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Practice Tip

- Make sure the name of the party in the body of the judgment is written the exact way as the style of the case.
- Example: If the style says “William Doe v. Johnny James Jr,” don’t write plaintiff as “Will Doe” and defendant as “Johnny James.”

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Small Claims/Debt Claims Judgments

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

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Small Claim Judgments: 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)

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Judgments on Cases with Counterclaims

Cause No. _____

Plaintiff/Counter-Defendant _____

Vs _____

Defendant/Counter-Plaintiff _____

IN THE JUSTICE COURT
PRECINCT FIVE
TRAVIS COUNTY, TEXAS

JUDGMENT

On _____, came to be heard the above entitled and numbered cause and counter-claim. Came the Plaintiff/Counter-Defendant, _____ and the Defendant/Counter-Plaintiff, _____. A Jury, having been demanded, heard and considered the evidence and argument and reached a verdict (attached hereto). Based on the verdict, the Court enters Judgment that the Plaintiff/Counter-Defendant has proved the original claim in the amount of \$ _____ and the Defendant/Counter-Plaintiff has proved a counter-claim in the amount of \$ _____. The Court, having offset the claims of both parties, is of the opinion that the ☐ Plaintiff/Counter-Defendant / ☐ Defendant/Counter-Plaintiff is entitled to Judgment.

IT IS THEREFORE ORDERED that the _____ recover from the _____ as follows:

\$ _____

\$ _____ as prejudgment interest;

\$ _____ attorney's fees; or

\$ _____ as total sum; plus court costs; and post judgment interest at the rate of 5.00% per annum on all amounts from the date of judgment until paid.

SIGNED _____

Judge Nicholas Chu
Justice of the Peace, Precinct Five
Travis County, Texas

A motion to set aside this judgment for good cause must be filed within fourteen (14) days after the date of judgment is signed and be supported by affidavit.

To appeal, a bond must be filed within twenty one (21) days from the judgment date or within twenty one (21) days after a motion to set aside the judgment is overruled.

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Eviction Judgments

- ☐ State who has possession of the premises (include address, don't include move out date).
- ☐ Court costs.
- ☐ Post Judgment Interest Rate.
- ☐ Back rent, if applicable.
 - ☐ The court can enter a judgment for back rent for more than the jurisdictional amount, as long as it was under the jurisdictional amount at the time of filing (mere passage of time rule).
 - ☐ Remember: late fees or other penalties cannot be recovered in an eviction case.
- ☐ Attorney's Fees, if applicable.

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Eviction Judgments: Nonpayment of Rent Cases

- ☐ **“Nonpayment of rent cases”** = any eviction from residential property where the grounds for eviction are nonpayment of rent, even if the plaintiff didn’t actually seek or receive a monetary award of back rent.
- ☐ **Judgments for all nonpayment of rent cases:** court must include the amount of the appeal bond, taking into consideration the money required to be paid into the court’s registry. Property Code § 24.00511(a)
- ☐ **Judgment for nonpayment of rent cases where the landlord wins:** court must determine (based on the lease and applicable laws/regulations) and include the amount of rent to be paid each rental pay period during the pendency of any appeal.
 - ☐ And must note if any portion of the rent is payable by a government agency. Property Code § 24.0053(a)

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Repair and Remedy Judgments

- ☐ Court Costs
- ☐ Other potential provisions, depending on the case:
 - ☐ Reasonable action to repair or remedy the condition.
 - ☐ Reduction in the tenant’s rent, from the date of the first repair notice until repair is made.
 - ☐ Civil penalty of one month’s rent plus \$500.
 - ☐ Tenant’s actual damages.
 - ☐ Attorney’s fees.

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Repair and Remedy Judgments: Landlord Ordered to Repair

- **Must state:**

- ☐ What actions the landlord must take to repair or remedy the condition; and
- ☐ The dates when the repair must be completed (TCRP 509.6(b)(3)).

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Repair and Remedy Judgments: Rent Reduction Ordered

Must state:

- ☐ The amount of the rent tenant must pay;
- ☐ The frequency with which the tenant must pay the rent;
- ☐ The condition justifying the reduction of rent;
- ☐ Effective date of the order reducing rent;
- ☐ That the order will terminate on the date the condition is repaired/remedied; and
- ☐ That on the day the condition is repaired or remedied, landlord must give tenant written notice, served in accordance with 501.4, that the condition has been repaired and that rent will revert back to the lease amount.

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Garnishment

- ☐ Remember, garnishments are filed as their own case.
- ☐ You will have a specific type of judgment in a garnishment case.
- ☐ TJCTC has created special forms for garnishment cases that you can find here (for things that don't happen in other cases – discharging a garnishee, default judgment against garnishee, etc.):
<https://www.tjctc.org/tjctc-resources/forms.html>

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What **Not** to Include in Any Civil Judgments



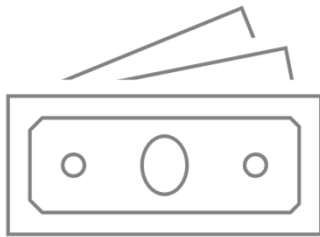
Payment plans



Injunctive relief

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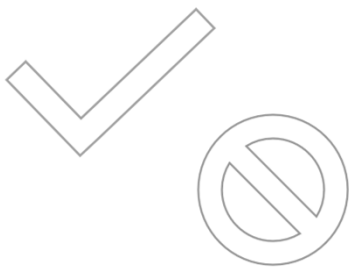
Payment Plans



- 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!

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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 specific 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

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What if You Make a Mistake?

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Clerical Mistakes: Nunc Pro Tunc

A judgment nunc pro tunc may be used to amend a judgment to fix any clerical error.

Jan. 2, 2019 when judgment
was actually signed Jan. 2,
2020.

David Jenkin when party's
name in the lawsuit is
actually Jenkins.

NOT for correcting substantive/judicial errors

The judgment is for \$5,000, and after thinking about the case you think it really should have been \$8,000.

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Substantive/Judicial Errors

Vacate and enter new judgment.

- But only an option if you still have plenary power!

Must inform the parties.

All deadlines will then run from the date the new judgment is signed.

Depending on the circumstances, you may need to hold a hearing.

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More Info on Court Costs + Attorney's Fees

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Court Costs

- ❑ Judge **MUST** award costs allowed by law to the successful party, even if they don't specifically ask for them.

Rule 505.1(c)

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Discussion Question

Can private process server fees be assessed as court costs?

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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.

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Discussion Question

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 of the above

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Discussion Question

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

What if the party is an attorney and is representing themselves?

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Attorney's Fees After *Rohrmoos* Case

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

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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.

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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)

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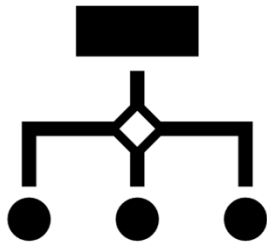
More Info on Interest

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Post-Judgment Interest

- ☐ Every civil judgment **MUST** have a post-judgment interest rate.
- ☐ The rate might be 0%.
- ☐ Chapter 7 of TJCTC's Civil Deskbook covers this topic in depth.

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How the Finance Code
Statutes Work

Take a look at the
Post-Judgment
Interest Flowchart

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Pre-Judgment Interest

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

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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.

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Let's Practice!

Find the *"Judgment for Plaintiff for Recovery of Specific Items (Jury Trial)"* form in your handouts and fill it out using the information on the next slide.

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You just received the verdict in a jury trial.

Neither party was represented by an attorney.



- 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

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Questions?

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Thank You!

Don't forget to fill out your evaluation.