

Creating Civil Judgments and Orders

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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

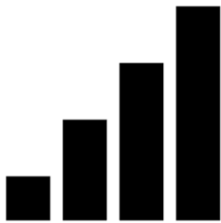
www.txcourts.gov

- Texas Rules of Civil Procedure (TRCP)

www.sll.texas.gov/legal-help

- Property Code and Civil Practice & Remedies Code

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Poll



Breakout

Interactivity

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

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

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Civil Judgments

Small Claims & Evictions

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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!*****

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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.

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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).”***

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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.”***

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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.”***

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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)*

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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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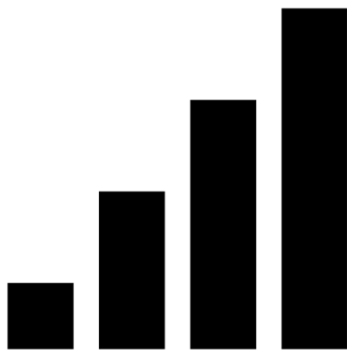
Court Costs

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

Rule 505.1(c)

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Poll 1



Can private process server fees be assessed as court costs?

1. Yes
2. No

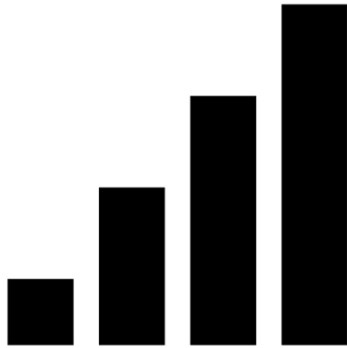
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Attorney's Fees

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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Poll 2

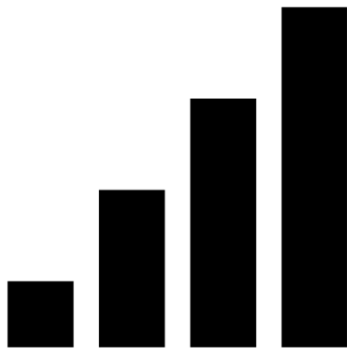


In which of these types of cases can attorney's fees be awarded?

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

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Poll 3



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

1. Yes
2. No

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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

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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

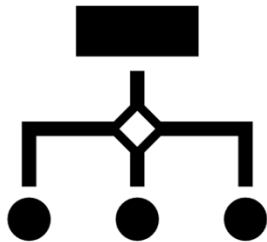
Rohrmoos Venture v. UTSW DVA Healthcare, LLP, 578 S.W.3d 469, 487 (Tex. 2019)

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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

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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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What **Not** To Include In Civil Judgments



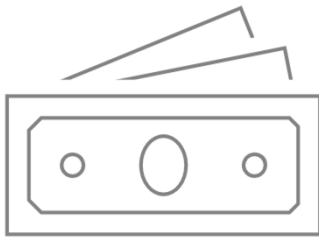
Payment plans



Unauthorized
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 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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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>

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Questions

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Let's Try a Few

Look at the forms in your handouts.

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The Following Forms Are In Your Handouts:

Default Judgment
Without Hearing –
Debt Claim Case

Judgment for
Defendant – Bench
Trial

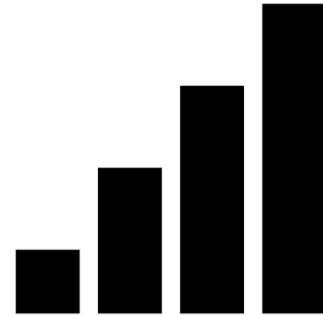
Judgment for
Plaintiff for
Recovery of
Specific Items –
Jury Trial

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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



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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.



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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



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Bench Trial

Rebecca Glisan vs.
Amber Myers

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

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Questions

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Thank You!

Remember to complete your evaluation!

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