

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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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

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Money Judgment Requirements

- Money Judgments 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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Eviction Appeal Information

- 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 Appeal Information

▪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 Case Appeal Information

▪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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Texas Comparative Negligence

In **negligence** cases, the finder of fact (judge or jury) must assign a percentage of responsibility to each party.

If the plaintiff is more than 50% responsible, they recover \$0, due to what is called **comparative negligence**.

If the plaintiff is less than 50% responsible, they recover against the defendant the percentage of their damages that the defendant is responsible for.

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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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Compensatory Damages – Personal Injury

In both negligence and intentional tort cases, a party may seek to recover compensatory damages for personal injury. These damages can include:

- Physical pain (past and future)
- Mental anguish (past and future)
- Disfigurement or physical impairment
- Medical expenses
- Loss of earning capacity
- Loss of consortium (love & protection) – unlikely in justice court

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Compensatory Damages

Do not include the costs of coming to court in actual or compensatory damages.

Lost income from work can be awarded if the work is missed due to the injury, but not lost income for the day that the party comes to court.

Travel costs to court are not recoverable.

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Punitive or Exemplary Damages

These are damages that are awarded, not to compensate the plaintiff, but instead to **punish**, or make an **example** out of, the defendant.

Goal is to punish the defendant for its bad action, as well as deter any future parties from engaging in the same bad behavior.

- Notable examples include McDonald's being forced to pay punitive damages in the "hot coffee" case and Ford being forced to pay punitive damages when they knew of the Ford Pinto explosion danger.

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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)
 - Therefore, this counts as a "money judgment".

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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Question 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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Attorney's Fees – Ch. 38, CPRC

Sec. 38.001 lists the types of suits where a party can recover attorney's fees:

- Rendered services or performed labor
- Furnished material
- Freight or express overcharge or loss/damage
- Killed or injured stock
- Sworn accounts
- Oral or written contract

What about personal injury cases, like a car accident case or ski accidents?

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Attorney's Fees – Ch. 38, CPRC

Usual and customary attorney's fees are presumed to be reasonable, but that presumption may be rebutted.

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Question 2

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

1. Rendered Services
2. A written contract
3. An oral contract
4. All the above

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Question 3

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

1. Yes
2. No

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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 Handout 1, 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, our courts only have the authority to order **money** 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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Comparative Negligence Question

If damages are \$5,000 and the jury finds the defendant 40% responsible and the plaintiff 60%, how much does the plaintiff get? What if they flip those percentages?

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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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Questions

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Thank You!

Remember to complete your evaluation!