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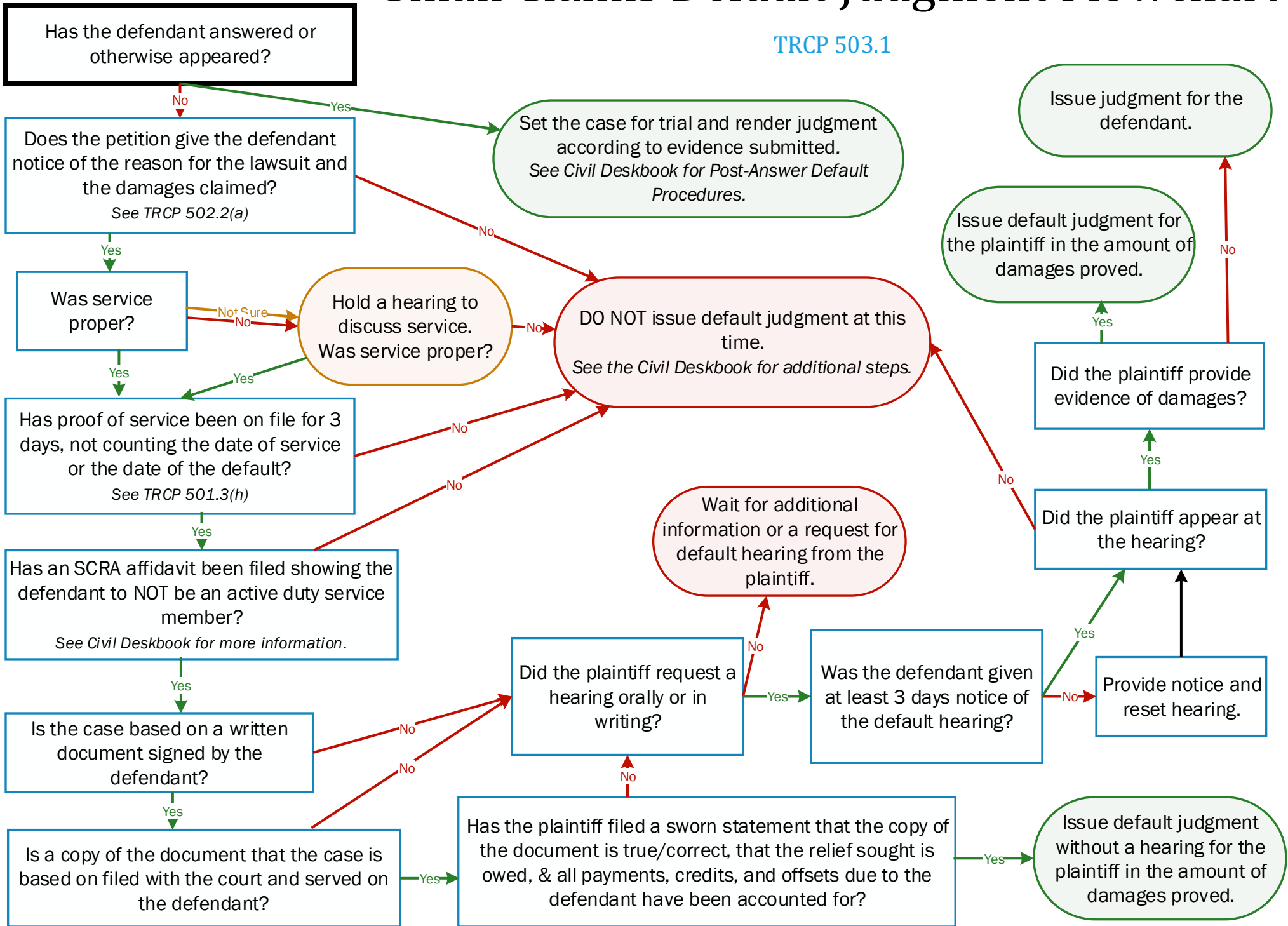
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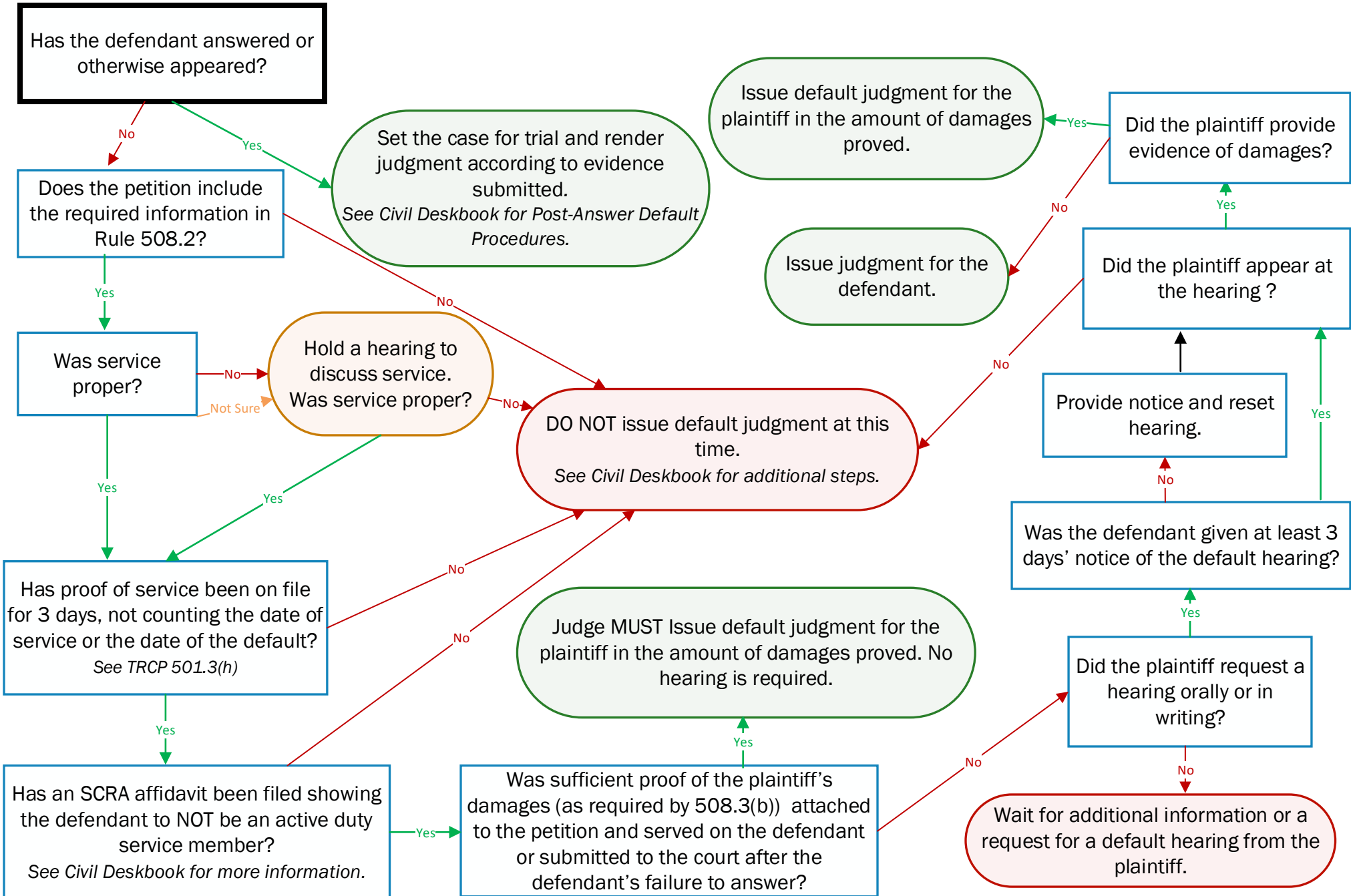
Small Claims Default Judgment Flowchart

TRCP 503.1

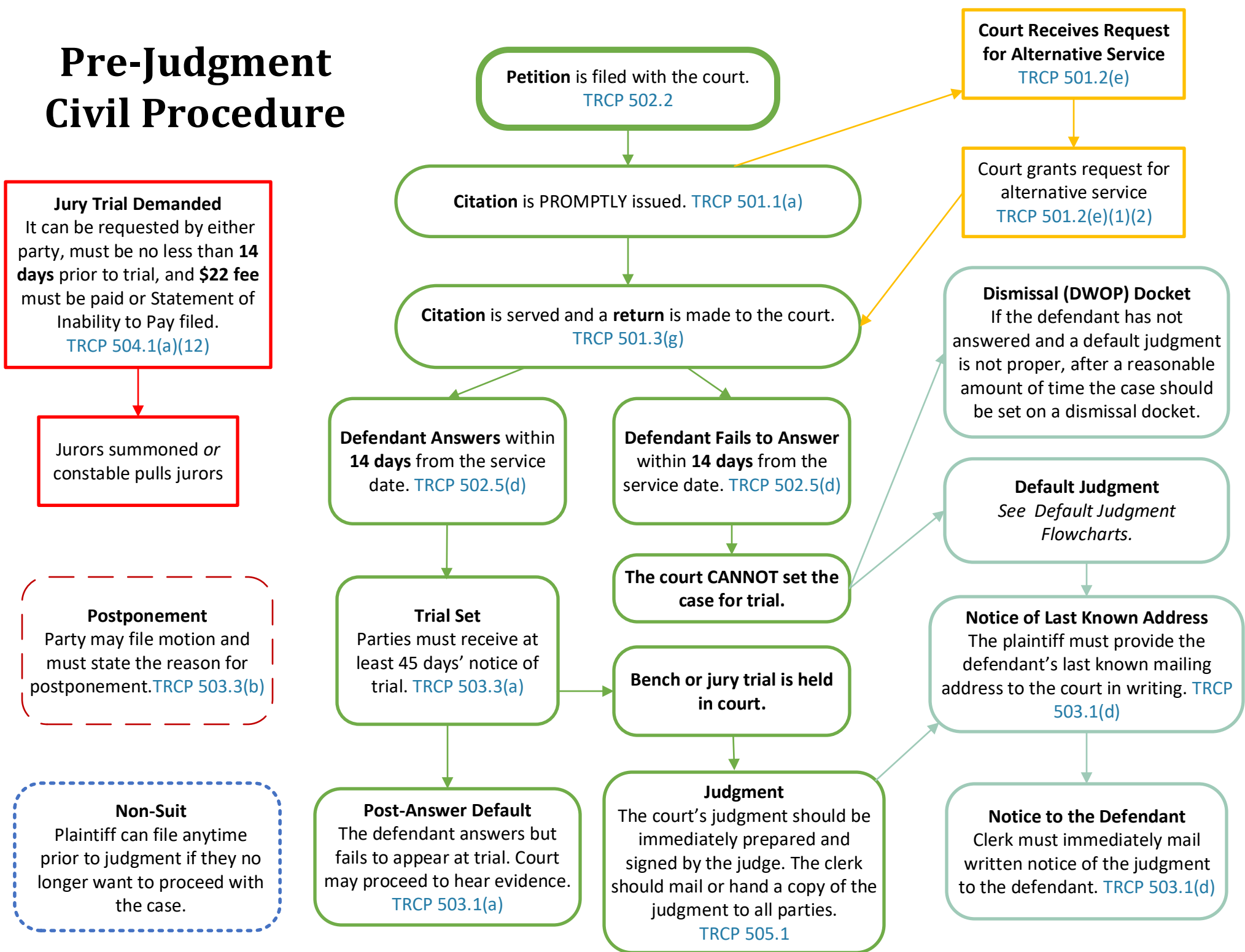


Debt Claim Default Judgment Flowchart

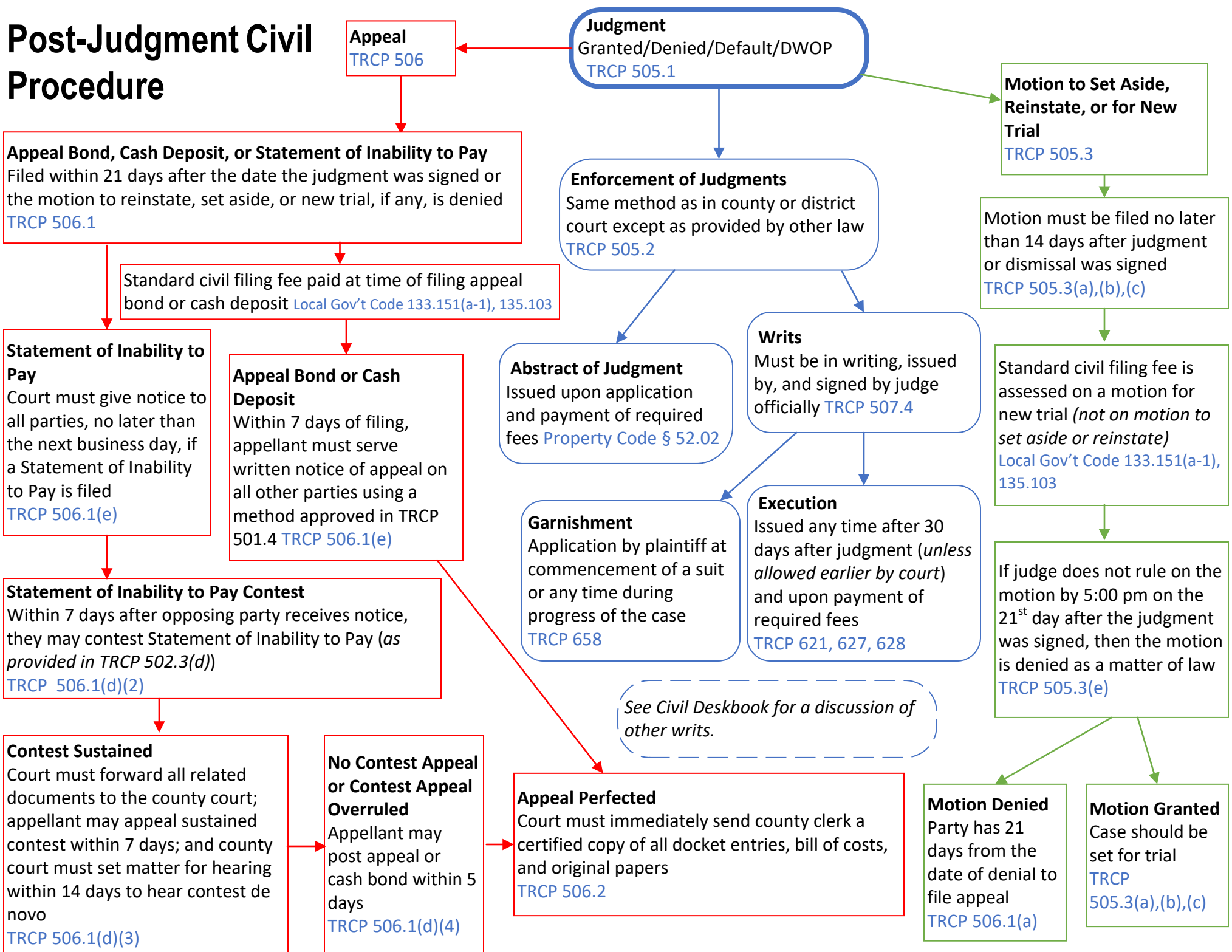
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Pre-Judgment Civil Procedure



Post-Judgment Civil Procedure



Appeal
TRCP 506

Judgment
Granted/Denied/Default/DWOP
TRCP 505.1

**Motion to Set Aside,
Reinstate, or for New
Trial**
TRCP 505.3

Appeal Bond, Cash Deposit, or Statement of Inability to Pay
Filed within 21 days after the date the judgment was signed or
the motion to reinstate, set aside, or new trial, if any, is denied
TRCP 506.1

Enforcement of Judgments
Same method as in county or district
court except as provided by other law
TRCP 505.2

Motion must be filed no later than
14 days after judgment
or dismissal was signed
TRCP 505.3(a),(b),(c)

Standard civil filing fee paid at time of filing appeal
bond or cash deposit Local Gov't Code 133.151(a-1), 135.103

**Statement of Inability to
Pay**
Court must give notice to
all parties, no later than
the next business day, if
a Statement of Inability
to Pay is filed
TRCP 506.1(e)

**Appeal Bond or Cash
Deposit**
Within 7 days of filing,
appellant must serve
written notice of appeal on
all other parties using a
method approved in TRCP
501.4 TRCP 506.1(e)

Abstract of Judgment
Issued upon application
and payment of required
fees Property Code § 52.02

Writs
Must be in writing, issued
by, and signed by judge
officially TRCP 507.4

Standard civil filing fee is
assessed on a motion for
new trial (not on motion to
set aside or reinstate)
Local Gov't Code 133.151(a-1),
135.103

Statement of Inability to Pay Contest
Within 7 days after opposing party receives notice,
they may contest Statement of Inability to Pay (as
provided in TRCP 502.3(d))
TRCP 506.1(d)(2)

Garnishment
Application by plaintiff at
commencement of a suit
or any time during
progress of the case
TRCP 658

Execution
Issued any time after 30
days after judgment (unless
allowed earlier by court)
and upon payment of
required fees
TRCP 621, 627, 628

If judge does not rule on the
motion by 5:00 pm on the
21st day after the judgment
was signed, then the motion
is denied as a matter of law
TRCP 505.3(e)

See Civil Deskbook for a discussion of
other writs.

Contest Sustained
Court must forward all related
documents to the county court;
appellant may appeal sustained
contest within 7 days; and county
court must set matter for hearing
within 14 days to hear contest de
novo
TRCP 506.1(d)(3)

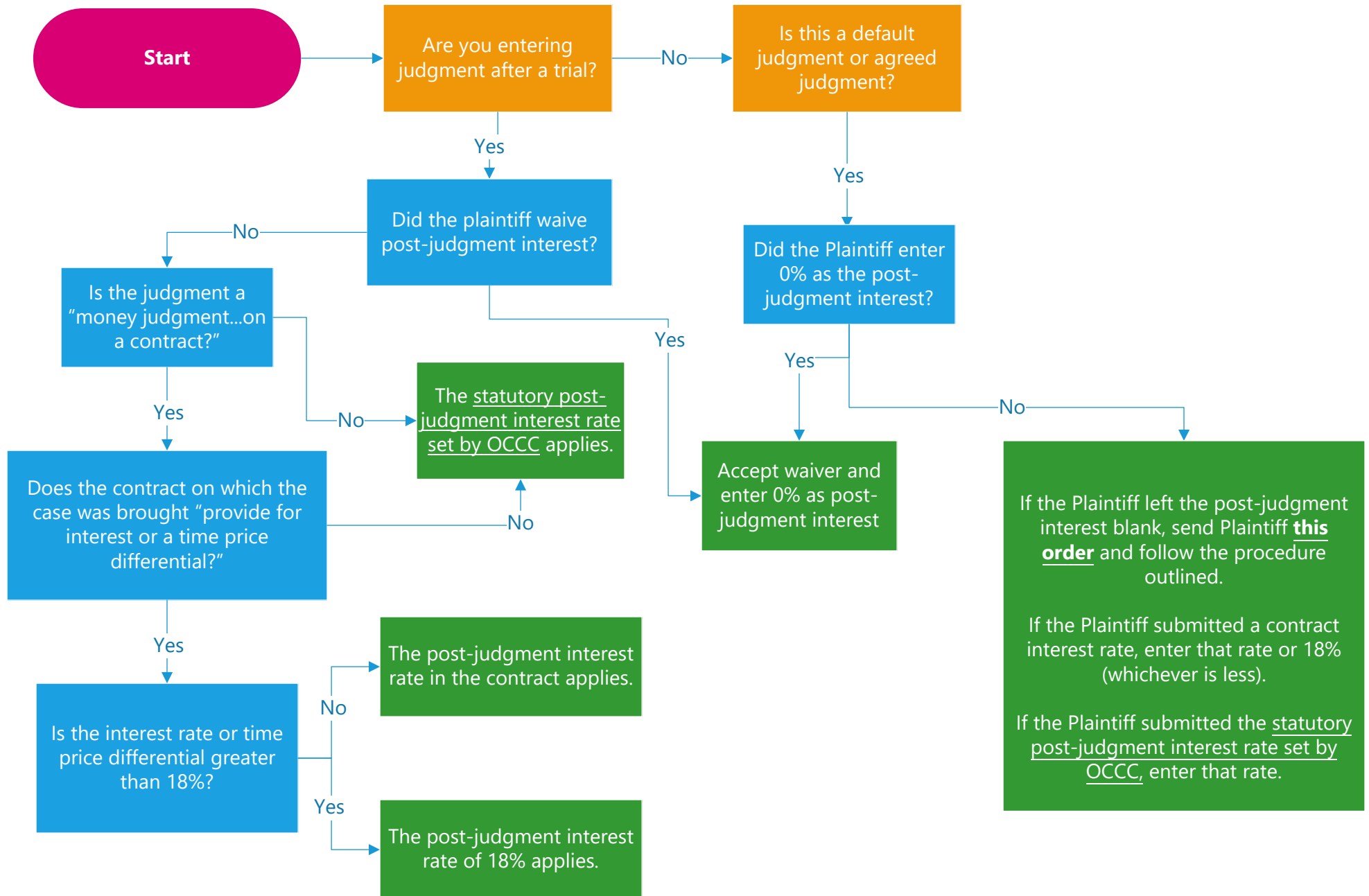
**No Contest Appeal
or Contest Appeal
Overruled**
Appellant may
post appeal or
cash bond within 5
days
TRCP 506.1(d)(4)

Appeal Perfected
Court must immediately send county clerk a
certified copy of all docket entries, bill of costs,
and original papers
TRCP 506.2

Motion Denied
Party has 21
days from the
date of denial to
file appeal
TRCP 506.1(a)

Motion Granted
Case should be
set for trial
TRCP
505.3(a),(b),(c)

Post-Judgment Interest Flowchart



Exempt Property Benchcard

What is Exempt Property?

Texas property law exempts certain categories of property from seizure to satisfy a debt. This means that if a judgment is entered against a person, it can only be satisfied by specific categories of properties that are not exempt by the law called, *non-exempt property*. Chapter 41 and 42 of the Texas Property Code govern most property exemptions.

Real Property			
Type	Amount		Statute
Rural Homestead	Family	200 acres	Property Code 41.001, 41.002
	Single Adult	100 acres	
Urban Homestead	10 acres		
Burial Plots	One or more		Property Code 41.001

Personal Property – No Aggregate Limits	
Type	Statute
Current Wages for Personal Services <i>*except for the enforcement of court-ordered child support payments, spousal maintenance, defaulted federal student loans, and federal income taxes</i>	Property Code 42.001
Professionally Prescribed Health Aids <i>*of debtor or debtor’s dependent</i>	
Alimony, Spousal Support, or Spousal Maintenance	
Child Support	
Bible or Other Book Containing Sacred Writings of a Religion	
Savings and Retirement Accounts	Property Code 42.001, 42.0021
College Savings Plans	Property Code 42.0022

Personal Property – With Aggregate Limits		
Type	Aggregate Value Limits	
	Family	\$100,000
	Single Adult	\$50,000
Unpaid Commissions for Personal Services	<i>*Not to exceed 25%</i>	
Home Furnishings (including family heirlooms)		
Food		
Farming or Ranching Vehicles and Implements		
Tools, Equipment, Books, and Apparatus (including boats and motor vehicles used in trade or profession)		
Clothes		
Jewelry	<i>*Not to exceed 25%</i>	
Two Firearms		
Athletic and Sporting Equipment (including bicycles)		
Motor Vehicles (two-wheeled, three-wheeled, or four-wheeled) for each member of the family or single adult who holds a driver’s license or who relies on another to operate the vehicle for the benefit of the non-licensed person)		
Two Horses, Mules, or Donkeys and a Saddle, Blanket, Bridle, and Food for each		
12 Head of Cattle		
60 Head of Other Types of Livestock		
120 Fowl		
Household Pets		

What are Aggregate Limits?

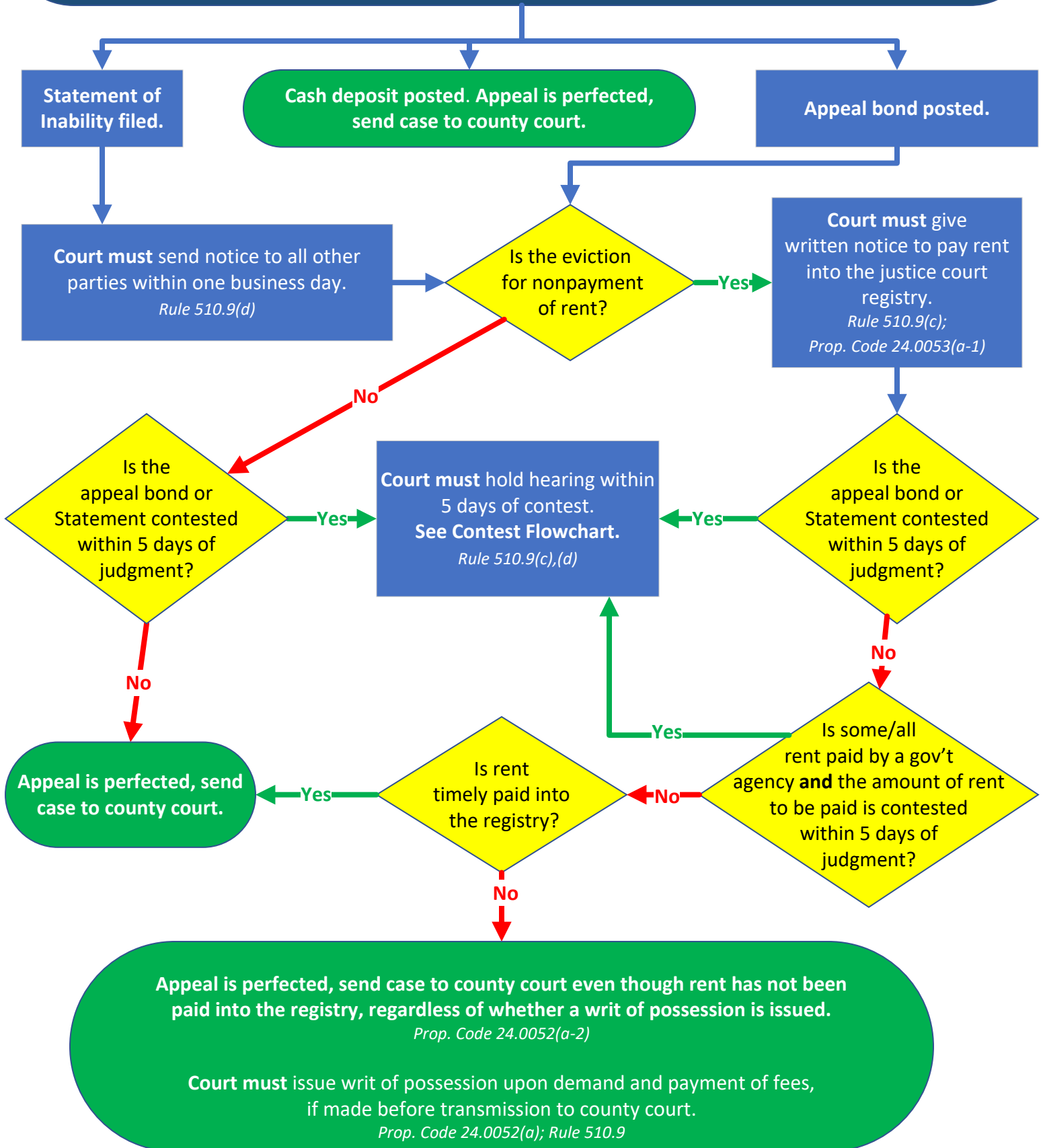
These are limits of **total** exempt personal property for an individual or family. The values of different types of personal property listed on this chart added together must not exceed the aggregate limits set for a family or individual. There are some additional limitations for some categories of property listed in the above chart.

Example: A person claims home furnishings, tools, and jewelry that together are valued at approximately \$50,000 as exempt property. Note – the value of the jewelry can only make up 25% or less of the \$50,000 (or \$12,500 or less).

Eviction Appeal Procedure Flowchart

Judge determines amount of appeal bond or cash deposit as provided in Rules 510.9 and 510.11 (appeal bond and rent amounts **must be included in judgment** in a residential eviction for nonpayment of rent). Appeal **must** be filed by 5th day after judgment (see Rules 510.2 and 500.5) and a filing fee must be paid to the justice court unless it is waived due to the filing of a Statement of Inability.

Rules 510.9 & 510.11; Prop. Code 24.00511(a)



Eviction Contest Procedure Flowchart

Hearing must be held within 5 days of contest.
Prop. Code 24.00512(c); 24.0052(d); 24.0053(c)

Party contests the amount of rent paid by the tenant into the registry, and rent is paid in whole or in part by a governmental agency.

Party contests an appeal bond.

Party contests a Statement of Inability.

Has TDI approved the surety to do business in Texas?

Is a legal aid provider certificate filed with the Statement?

If the tenant objects to the justice court's ruling at the hearing, the tenant is required to pay only the portion claimed to be owed by the tenant until the issue is tried in county court.
Rule 510.9(c); Prop. Code 24.0053(c),(d)

Must dismiss the contest.
Prop. Code 24.00512(a); Rule 502.3(d)

Court determines if amount and form of bond are sufficient and if surety has sufficient non-exempt assets
Prop. Code 24.00512

Court determines if appellant can afford appeal bond or cash deposit. If no, must enter a written order detailing reasons.
Rule 502.3(d)

If appeal bond is **approved**, appeal is perfected, send case to county court.

If Statement is **approved**, appeal is perfected, send case to county court.

If appeal bond **disapproved**, party may post cash deposit or Statement of Inability or appeal the disapproval to county court within 5 days.
Prop. Code 24.00512(g)

If Statement **disapproved**, party may appeal the disapproval to county court within 5 days or post cash deposit or appeal bond by the next day after the five day period expires.
Rule 510.9

If **nothing timely filed**, appeal is **not perfected**, writ should be issued by the justice court upon demand and payment of fees.
Prop. Code 24.00512(e)

If **disapproval appealed**, send up bond/ Statement and related documents.
Rule 510.9; Prop. Code 24.00512(f)

If **cash deposit timely filed**, appeal is **perfected**, send case to county court.
Prop. Code 24.00512(e)

If **Statement or appeal bond timely filed**, go to applicable box at top of Appeal Flowchart.

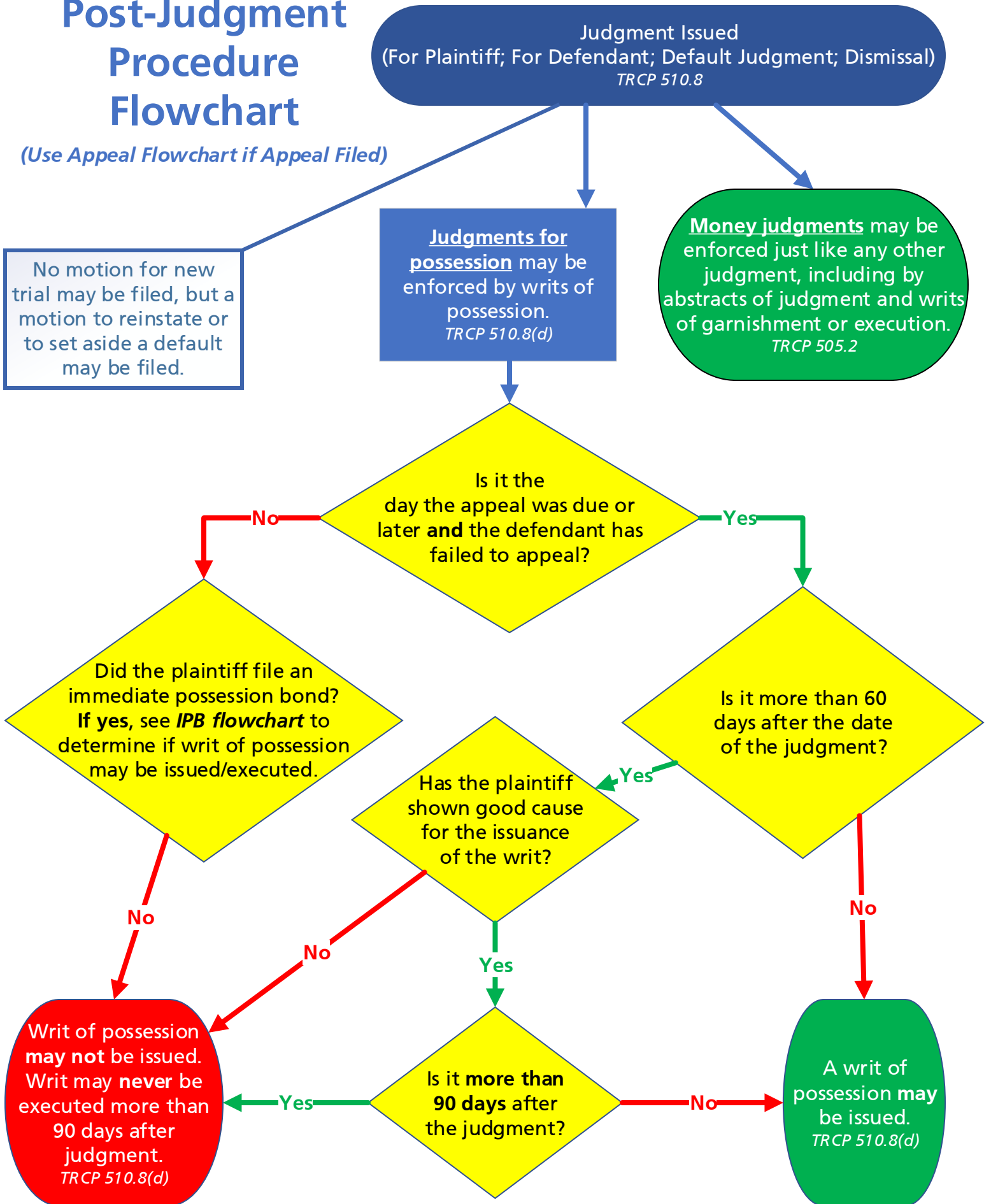
If **county court disapproves bond**, party has 5 days to file cash deposit or Statement. Go to box at top of Appeal Flowchart if filed. If not, justice court must issue writ upon demand and payment.
Prop. Code 24.00512(g)

If **county court approves bond or Statement**, send entire case up.

If **county court disapproves Statement**, party has 1 business day to file cash deposit or appeal bond. Go to box at top of Appeal Flowchart if filed. If not, justice court must issue writ upon demand and payment.
Rule 510.9(c)

Eviction Post-Judgment Procedure Flowchart

(Use Appeal Flowchart if Appeal Filed)



Judgment Issued
(For Plaintiff; For Defendant; Default Judgment; Dismissal)
TRCP 510.8

No motion for new trial may be filed, but a motion to reinstate or to set aside a default may be filed.

Judgments for possession may be enforced by writs of possession.
TRCP 510.8(d)

Money judgments may be enforced just like any other judgment, including by abstracts of judgment and writs of garnishment or execution.
TRCP 505.2

Is it the day the appeal was due or later **and** the defendant has failed to appeal?

Did the plaintiff file an immediate possession bond?
If **yes**, see *IPB flowchart* to determine if writ of possession may be issued/executed.

Is it more than 60 days after the date of the judgment?

Has the plaintiff shown good cause for the issuance of the writ?

Writ of possession may not be issued. Writ may never be executed more than 90 days after judgment.
TRCP 510.8(d)

Is it more than 90 days after the judgment?

A writ of possession may be issued.
TRCP 510.8(d)

Eviction Procedure Through Judgment Flowchart

Sworn petition filed with the court, with filing fee or Statement of Inability. May join claim for back rent if within court's jurisdictional limit. No counterclaims may be filed.

TRCP 510.3

Citation immediately issued, containing the date for trial, which must be **no less than 10 days and no more than 21 days from the date the petition was filed.**

TRCP 510.4(a)

Request for alternative service made.
TRCP 510.4(c)(1)

Citation served either by personal service or delivery to person at least 16 years old at the defendant's residence.
TRCP 510.4(b)

Must be a jury trial if party requests in writing at least 3 days before trial and pays \$22 jury fee or files Statement of Inability.
TRCP 510.4(a)(12)

If at least two attempts of service have been made at all addresses in the county, court grants alternative service, which must include both posting the citation and mailing it to the premises.
TRCP 510.4(c)(2)(3)

Return of service filed at least the day before trial. Trial held no less than six days after service. If plaintiff doesn't appear, may postpone or dismiss.
TRCP 510.4, 510.6

Postponements may be granted for good cause, but a postponement may not be for more than 7 days unless all parties agree in writing.
TRCP 510.7(c)

Court must take sworn petition as true and render default if petition contains all elements. Judgment must include appeal bond and monthly rent amounts if case is residential eviction for nonpayment of rent.
TRCP 510.6(b)

Does defendant file an answer or appear at trial?

No

Court hears all evidence and renders the appropriate judgment, including appeal bond and monthly rent amounts if case is residential eviction for nonpayment of rent

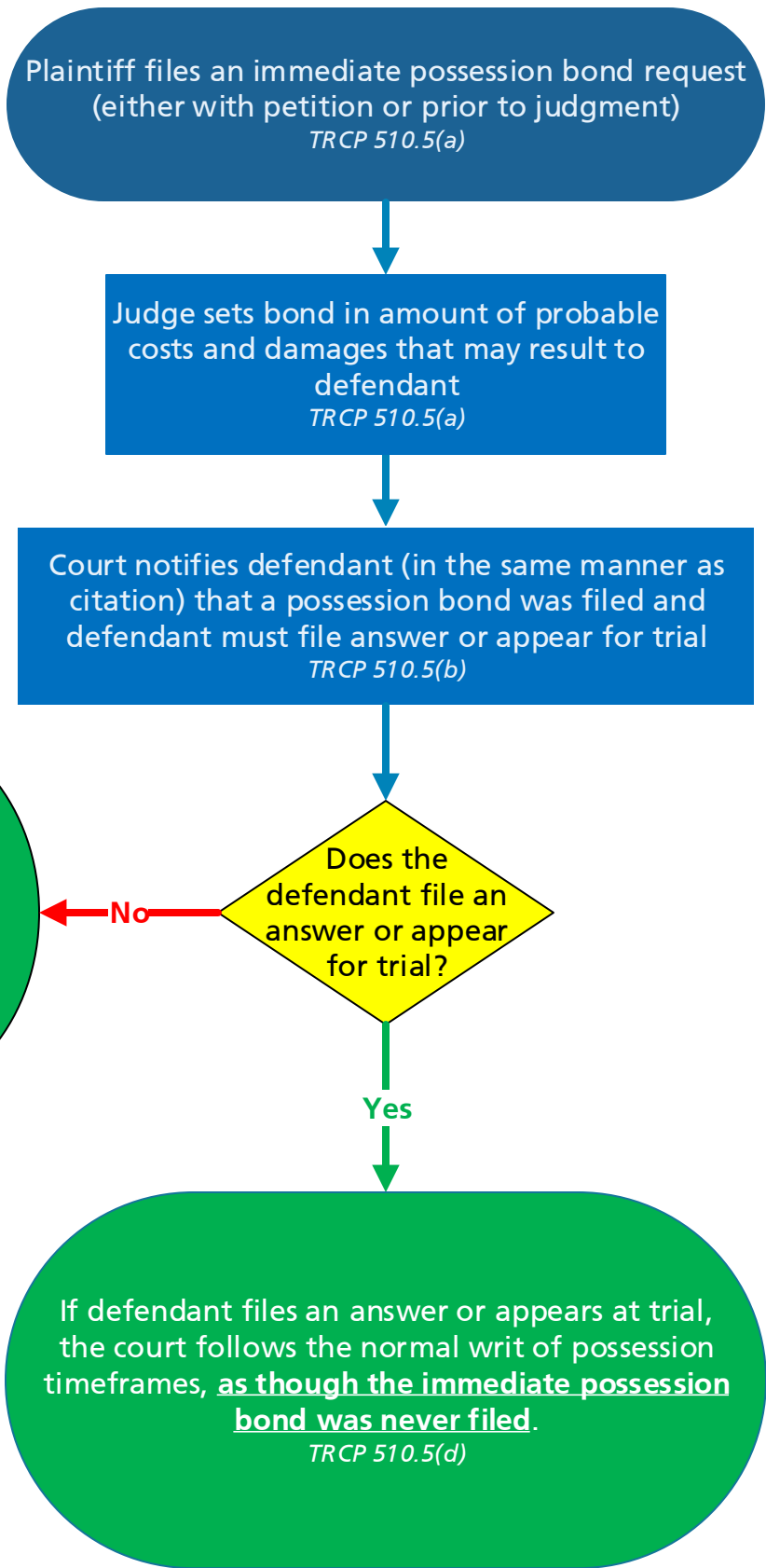
Yes

If any elements are missing, plaintiff can offer testimony and evidence at the hearing in order to prove their case. Cannot add information that would serve as an unfair surprise. Judgment for defendant if plaintiff can't prove case.

Plaintiff must provide defendant's last known address and SCRA affidavit.

Court must immediately mail notice of default judgment to defendant's address.
TRCP 510.6(c)

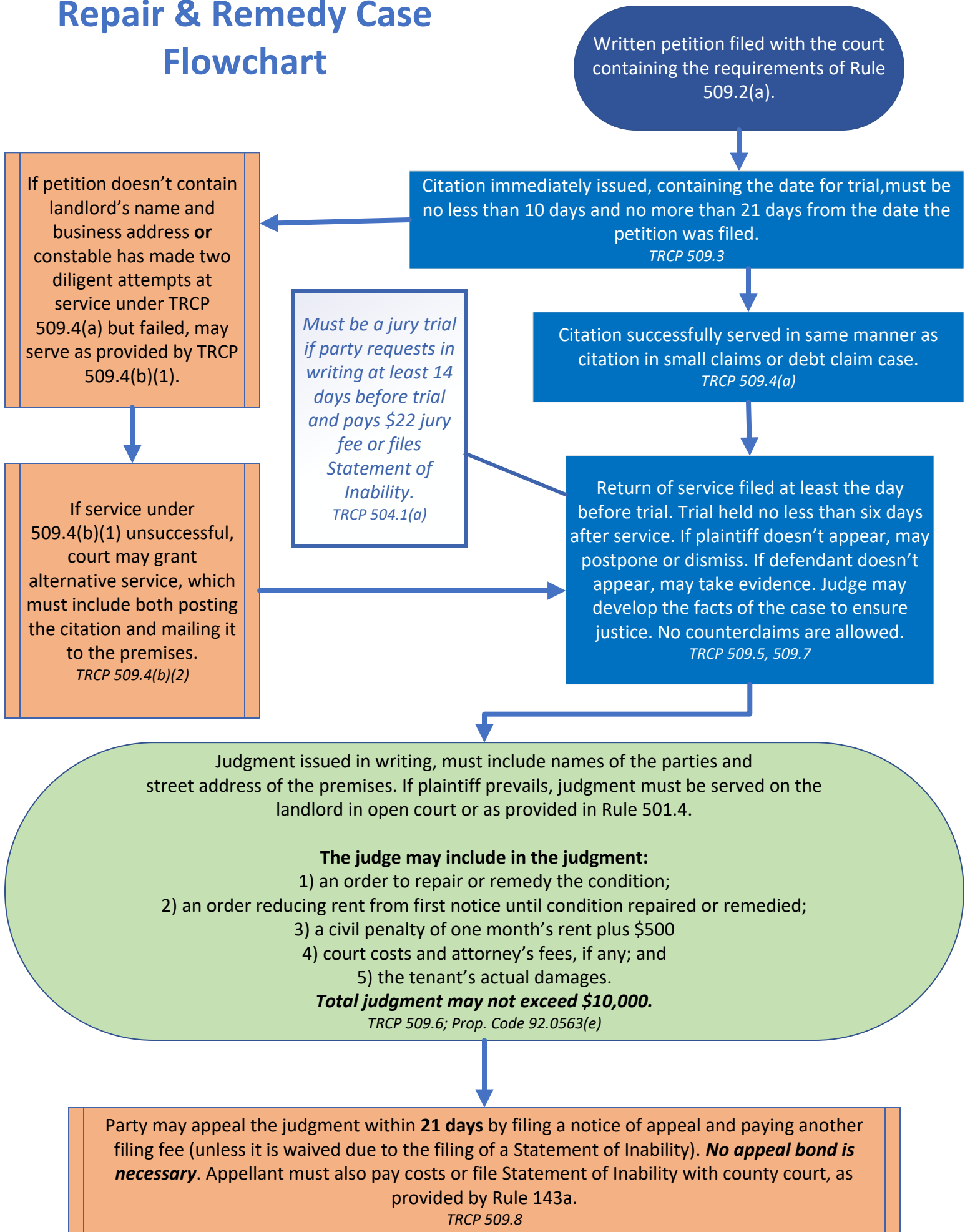
Immediate Possession Bond Flowchart



Notice to Vacate Chart

Type of Tenancy	Time Period
Tenancy for a Fixed Term	3 days' written notice unless lease provides otherwise Prop Code 24.005(a)
Tenancy at Will <i>without Rental Payment</i> (no fixed term, such as boyfriend/girlfriend or parent/adult child)	3 days' written notice Prop Code 24.005(b)
Tenancy at Will <i>with Fixed Rental Payments</i> (such as month-to-month agreements)	3 days' written notice unless lease specifies otherwise. If no breach of lease, must first give termination notice of at least one rental period unless lease specifies otherwise Prop Code 24.005(b); 91.001
Tenancy by Sufferance (such as an owner who was foreclosed upon)	3 days' written notice Prop Code 24.005(b)
Residential Tenant of an Owner Who Was Foreclosed Upon	<i>If requirements of bona fide tenant met</i> (see Evictions Deskbook Chapter 3 for details), tenant can finish lease unless purchaser will live in property as primary residence, in which case 90 days' written notice Permanently Protecting Tenants at Foreclosure Act of 2018, 12 U.S.C. 5201
Commercial Tenant of an Owner Who Was Foreclosed Upon	30 days' written notice Prop Code 24.005(b)
Squatter (person who entered without legal authority or by force)	Immediate notice, which can be oral Prop Code 24.005(d)
Tenant of a Squatter	3 days' written notice Prop Code 24.005(c)

Repair & Remedy Case Flowchart



Repair Rights and Remedies: Differences Between Manufactured Home Tenancies (Ch. 94) and Other Residential Tenancies (Ch. 92)

Right, Duty, or Remedy Provision	Applicable Law
A <i>manufactured home community</i> landlord has additional maintenance obligations related to the manufactured home community.	Prop. Code § 94.152
A written lease may require the tenant’s initial notice of a condition to be repaired to be in writing in a <i>residential tenancy</i> only.	Prop. Code § 92.052(d) Prop. Code § 94.153
Landlord has no obligation to repair a condition in or on the tenant’s <i>manufactured home</i> .	Prop. Code § 94.153(a)
Landlord has no obligation under a <i>manufactured home tenancy</i> to provide water of at least 120 degrees.	Prop. Code § 92.052(a) Prop. Code § 94.153(b)
Option to close premises for demolition or non-residential purpose only applies to <i>residential tenancies</i> .	Prop. Code § 92.055
The subsequent written notice of a condition must be delivered by certified mail, return receipt requested, or registered mail in a <i>manufactured home tenancy</i> , but may also be delivered by any other trackable mail or delivery service in a <i>residential tenancy</i> .	Prop. Code § 92.056(b)(3) Prop. Code § 94.156(b)(3)
Only <i>residential leases</i> must contain language that informs the tenant of the remedies.	Prop. Code § 92.056(g)
A landlord’s affidavit of delay may be delivered by personal delivery or certified mail with return receipt. Additionally, if authorized in a written lease, in a <i>residential tenancy</i> the landlord may leave it in a conspicuous place in the dwelling; or in a <i>manufactured home tenancy</i> , may leave the notice securely fixed on the outside of the main entry door of the manufactured home.	Prop. Code § 92.0562(e)(3) Prop. Code § 94.158(e)(3)
Ch. 92 cases are filed as Repair and Remedy Cases under Rule 509, are limited to \$10,000 in damages, and judge may order repairs to be made. Ch. 94 cases are filed as small claims cases, cap is \$20,000 if filed on/after 9/1/20, and judge may not order repairs.	Prop. Code § 92.0563 Prop. Code § 94.159 Rule 509.1, TRCP

Writ of Re-Entry Flowchart

Applicant files sworn written application in precinct where property is located, pays the civil filing fee or files Statement of Inability (or judge defers payment of costs), and orally states the facts of the case under oath to the judge.
Prop Code 92.009(b)

If judge finds that an unlawful lockout has occurred, ex parte writ of re-entry for immediate and temporary possession shall be issued.
Prop Code 92.009(c)

Writ must be served on landlord/mgmt co. in same manner as writ of possession. Unless the judge has deferred costs or Statement of Inability was filed, service fee must be paid (same as service of writ of possession).
Prop Code 92.009(d)

Hearing must be held at least 1 and no more than 7 days after request.
Prop Code 92.009(e)

Does landlord request a hearing before the 8th day after service?

Yes

No

A judgment for court costs may be entered against the landlord.
Prop Code 92.009(f)

Writ remains in place. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.009(g)

Was the writ properly issued?

Yes

No

Court dissolves the writ. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.009(g)

Has the landlord complied with the writ?

Yes

Close case.

No

Has a writ of possession issued or was there an appeal under Sec. 92.009(g)?

No

Court issues a show cause notice upon filing of an affidavit. Service fee in amount of citation service fee assessed unless deferred or Statement of Inability filed.
Prop Code 92.009(i)

Did landlord disobey writ?

No

Yes

Landlord may be committed to jail without bail until the order is obeyed.
Prop Code 92.009(i)

Yes

Is landlord still disobeying writ?

No

The writ of re-entry may not be enforced.
Prop Code 92.009(g), (h)

May hold in contempt under Gov't Code 21.002 (up to 3 days in jail and/or up to \$100 fine).
Prop Code 92.009(i)

Writ of Restoration Flowchart

Applicant files sworn written application in precinct where property is located, pays the civil filing fee or files Statement of Inability (or judge defers payment of costs), and orally states the facts of the case under oath to the judge.
Prop Code 92.0091(b)

If judge finds that an unlawful lockout has occurred, ex parte writ for immediate and temporary restoration shall be issued.
Prop Code 92.0091(c)

Writ must be served on landlord/mgmt co. in same manner as writ of possession. Unless the judge has deferred costs or Statement of Inability was filed, service fee must be paid (same as service of writ of possession).
Prop Code 92.0091(d)

Hearing must be held at least 1 and no more than 7 days after request.
Prop Code 92.0091(e)

Does landlord request a hearing before the 8th day after service?

Yes

No

A judgment for court costs may be entered against the landlord.
Prop Code 92.0091(f)

Writ remains in place. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.0091(g)

Was the writ properly issued?

Yes

No

Court dissolves the writ. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.0091(g)

Has the landlord complied with the writ?

Yes

Close case.

No

Has a writ of possession issued or was there an appeal under Sec. 92.0091(g)?

No

Court issues a show cause notice upon filing of an affidavit. Service fee in amount of citation service fee assessed unless deferred or Statement of Inability filed.
Prop Code 92.0091(i)

Did landlord disobey writ?

No

Yes

Landlord may be committed to jail without bail until the order is obeyed.
Prop Code 92.0091(i)

Is landlord still disobeying writ?

Yes

No

The writ of re-entry may not be enforced.
Prop Code 92.0091(g), (h)

May hold in contempt under Gov't Code 21.002 (up to 3 days in jail and/or up to \$100 fine).
Prop Code 92.0091(i)

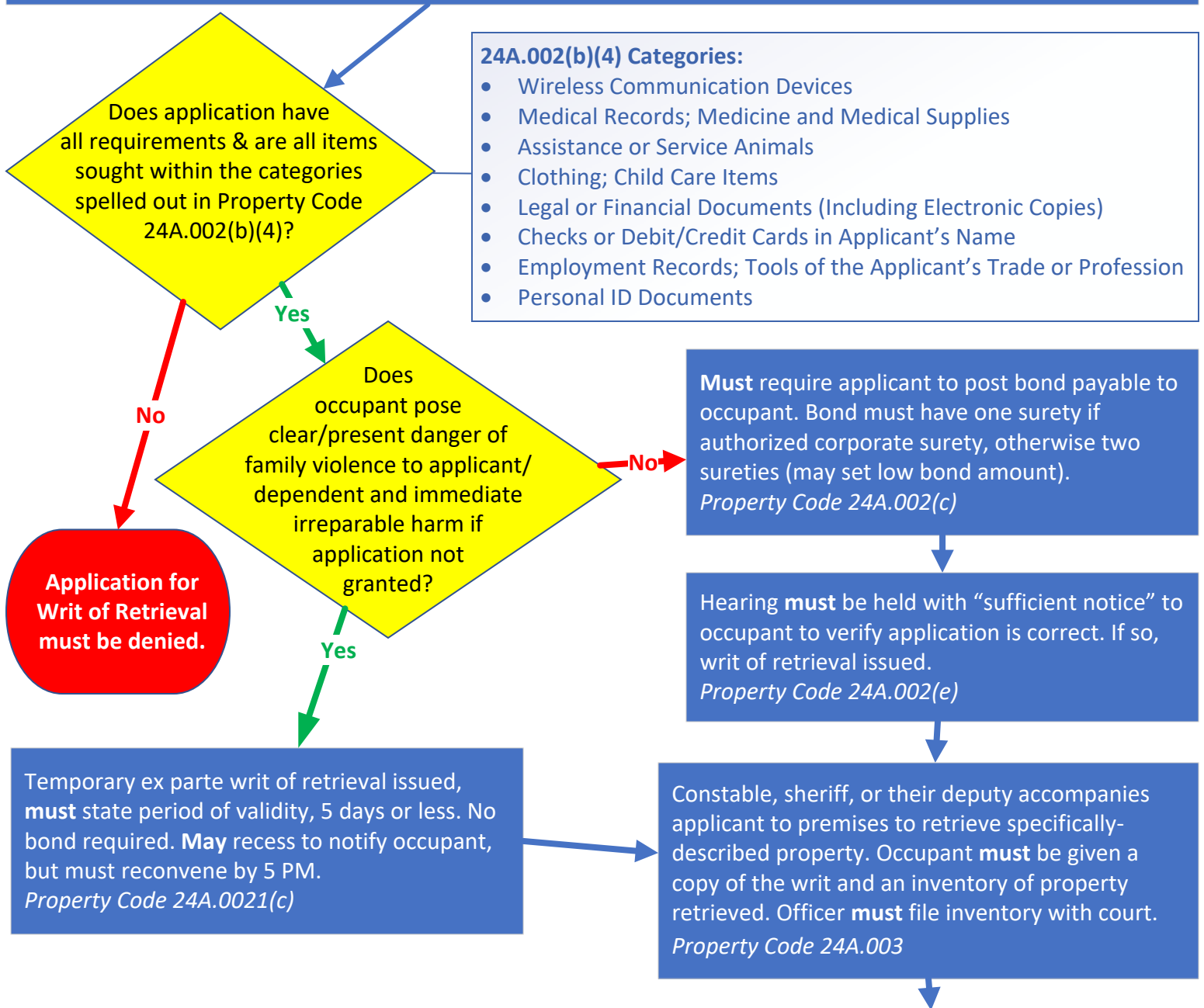
Writ of Retrieval Flowchart

Application filed with filing fee or
Statement of Inability.

Application must:

- Certify that applicant is excluded from the premises by occupant;
- Certify applicant is not subject to an order preventing them from entering premises;
- Allege that applicant or dependents require personal items that are in the premises;
- Describe the specific items to be recovered;
- Certify that the property being sought is not subject to a divorce or annulment case/decreed/order;
- Allege personal harm to applicant or dependent if the property is not recovered promptly; **and**
- Include a lease or other evidence that applicant is/was authorized to use the premises as residence.

Property Code 24A.002(b)



The occupant may file a complaint in the court that issued the writ, within **10 days** of the retrieval, alleging that the applicant took property belonging to the occupant or their dependent. The court **must** promptly hold a hearing and rule on the disposition of the disputed property.

Property Code 24A.006.

Civil Filing Fees and Costs Cheat Sheet Eff. 1/1/22

Small Claims Case	\$54
Debt Claim Case	\$54
Eviction Case	\$54
Repair & Remedy Case	\$54
Truant Conduct Case	No fee
Tow Hearing	\$54
Toll Hearing	\$54
ODL Application	\$54
Nondisclosure Order	\$54 (some that are not filed in justice court are different)
Writ of Sequestration	No fee
Writ of Attachment	No fee
Writ of Execution	\$5 per page writ fee
Writ of Garnishment (pre-judgment)	No fee
Writ of Garnishment (post-judgment)	\$54 + \$5 per page writ fee
Writ of Re-Entry	\$54
Writ of Restoration	\$54
Writ of Retrieval	\$54
Writ of Possession	\$5 per page writ fee
Motion for New Trial	\$54 (if case type doesn't require a filing fee, this fee is not assessed on motion for new trial either)
Motion to Set Aside Default	No fee
Motion to Reinstate	No fee
Other Misc. Motions	No fee
Appeal	\$54 (if case type doesn't require a filing fee, this fee is not assessed on appeal either)
Transcript Fee	\$10
Abstract of Judgment	\$5

***All fees waived upon filing of Statement of Inability, unless Statement is contested and denied at a hearing.**

***Filing fees do not include service fees for citations or writs, which vary by county.**

***Fees assessed on initial suit, as well as on counterclaim, cross-claim, third-party action, intervenor action, or interpleader.**

***\$54 fee is made up of \$33 Local Consolidated Civil Fee and \$21 State Consolidated Civil Fee, see Fines, Fees, & Costs Deskbook for details.**

Civil Filing Fees FAQ

- **Is a fee charged for a motion for new trial even if the motion is denied?** Yes.
- **Does the person who is appealing have to file an appeal bond or cash deposit in addition to the filing fee?** Yes, presuming they didn't file a Statement of Inability.
- **When is the \$5 per page writ fee assessed?** On any post-judgment writs, such as execution or garnishment.
- **What if the case was filed before January 1, 2022, but a motion for new trial or appeal is filed after January 1, 2022?** The court would assess the new filing fee on the motion for new trial. Anything filed after that date follows the new law, regardless of when the case is originally filed.
- **What if a filing is postmarked before January 1, 2022, but received after that date?** Under the mailbox rule, it would be considered filed on the postmark date, so the law effective before January 1 should be applied.
- **Is the \$22 jury fee still in effect?** Yes. The jury fee was changed in county/district courts, but not in justice courts.