

Writs of Execution 101 – The Basics

Amber Myers, Director of Legal Outreach & Staff Attorney at TJCTC

1

TJCTC Programs are an educational endeavor of the Justices of the Peace and Constable's Association of Texas, Inc. and funded by the Texas Court of Criminal Appeals.

Copyright © 2026 Texas Justice Court Training Center

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 the 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.txcourts.gov Texas Rules of Civil Procedure (TRCP)
- www.statutes.capitol.Texas.gov Statutes
- www.tjctc.org
 - Texas Civil Process Field Guide (updates coming soon)
 - Practical Guide to Writs of Execution Deskbook

3

What is a Writ of Execution?

4

2

Black's Law Dictionary says:

A court order directing a sheriff or other officer to enforce a judgment, usually by seizing and selling the judgment debtor's property.

5

Enforcement of Judgment – TRCP 621

- The judgments of the district, county, and justice courts shall be enforced by execution or other appropriate process.
- Such execution or other process shall be returnable in 30, 60, or 90 days as requested by the plaintiff, his agent or attorney.

6

Execution – TRCP 622

- An execution is a process of the court from which it is issued.
- The clerk of the district or county court or the justice of the peace, as the case may be, shall tax the costs in every case in which a final judgment has been rendered and shall issue execution to enforce such judgment and collect such costs.
- The execution and subsequent executions shall not be addressed to a particular county but shall be addressed to any sheriff or any constable within the State of Texas.

7

Enforcement of Judgment – Gov't Code 21.001

- A court has all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including authority to issue the writs and orders necessary or proper in aid of its jurisdiction.

8

Four Types of Writs of Execution

- Rule 630 - Execution for money judgment (most common)
- Rule 631 – Execution for sale of particular property
- Rule 632 – Execution for delivery of certain property
- Rule 633 – Execution for possession of or value of personal property
- We will cover each in some detail, then follow up with provisions applicable to all executions

9

Execution for the Sale of Particular Property

TRCP 631

10

Writ of Execution for the Sale of Particular Property – TRCP 631

- Writ commands the Constable or Sheriff to seize and sell certain property
- The order may also be used to order the officer to sell property seized under another writ.
- Sale conducted in the same manner as an ordinary execution

11

Writ of Execution for the Sale of Particular Property (cont.) – TRCP 631

- May require the officer to levy on other properties in satisfaction of the judgment
- Exemptions are not an issue for the officer.
- May order the officer to sell real or personal property
- Also known as Order of Sale

12

Order of Sale – TRCP 309

- "...order of sale shall issue to any sheriff or any constable within the State of Texas, directing him to seize and sell the same as under execution, in satisfaction of the judgment; and, if the property cannot be found, or if the proceeds of such sale be insufficient to satisfy the judgment, then to take the money or any balance thereof remaining unpaid, out of any other property of the defendant, as in case of ordinary executions."

13

Property Not Found – TRCP 309

- "...if the property cannot be found, or if the proceeds of such sale be insufficient to satisfy the judgment, then to take the money or any balance thereof remaining unpaid, out of any other property of the defendant, as in case of ordinary executions."
- This clause required the officer to levy on additional properties should the proceeds from the sale fail satisfy the judgment amount.

14

Example of Language from Rule 309 in a Writ:

THEREFORE, you are hereby commanded that you proceed to seize and sell the above described property, as under execution, and by virtue of this order of sale place the purchaser of the same in possession thereof within 30 days after the day of sale, and you apply the proceeds thereof to the payment and satisfaction of said sum of \$224,367.79 with interest accruing at 6.75% from March 15, 2019 through April 11, 2019; post judgment interest shall accrue on the balance at the rate of 6.75% per annum and costs of court as ordered in judgment, together with your legal fees and commissions for executing this writ. And if the said property shall sell for more than sufficient to pay off and satisfy said sums of money, then you are hereby directed to pay over the excess thereof to the Registry of the Court. But if you fail to find said property or if the proceeds of such sale be insufficient to satisfy said judgment, then you are directed to make the money, or any balance thereof remaining unpaid, out of any other property of the defendant, as in case of ordinary executions.

HEREIN FAIL NOT, but due return make hereof within 90 days, showing how you have executed the same.

GIVEN under my hand and seal of the District Court of Williamson County, Texas at my office in Georgetown, Texas this 8th day of September 2022.

LISA DAVID, District Clerk,
Williamson County, Texas

10 30 AM
15 2022



Teresa Maskunas
Teresa Maskunas Deputy

15

Requisites of an Order of Sale

- Directed to any Sheriff or Constable in the state of Texas
- Shall be signed by the clerk or justice officially, and bear the seal of the court, if issued out of the district or county court
- Returnable in 30, 60 or 90 days
- Date of issuance shall be noted thereon.
- Description of the judgment
- No sale within 30 Days of judgment
- Suspended by supersedeas

16

Officer Duties – Order of Sale

- Endorse date and time received
- Call on the defendant as you would in an execution
- Levy on the property listed in the writ
- Conduct sale following the rules of real property & personal property sales (including advertising requirements)

17

Additional Duties – Order of Sale

- Deliver Deed/Bill of sale to purchaser
- Levy on additional property subject to execution to satisfy the judgment
- Provide notice of sale as in an execution.

18

Real Estate Foreclosure Jurisdiction – Gov't Code Sec. 24.007(4)

- Texas district courts have exclusive subject matter jurisdiction over lawsuits for the enforcement of liens against real property.
- “The district court shall have original jurisdiction in civil cases of suits for the trial of title to land and for the enforcement of liens thereon.”
- Exceptions exist as authorized by statute.

19

Foreclosure Prohibited – Prop. Code Sec. 209.009

- A property owners' association may not foreclose a property owners' association's assessment lien if the debt securing the lien consists solely of:
 - (1) fines assessed by the association;
 - (2) attorney's fees incurred by the association solely associated with fines assessed by the association; or
 - (3) amounts added to the owner's account as an assessment under Section 209.005 (Association Records)(i) or 209.0057 (Recount of Votes)(b-4).

20

Writ of Execution – Delivery of Specific Property

TRCP 632

21

Execution for Delivery of Property – TRCP 632

- Commands the officer to take possession of property and deliver the possession to a person designated in the writ Rules 308, 505.2, 632.
- The writ will also specifically list and describe any personal or real property to be seized.

22

Other Names for the Same Thing

- These writs are called “special writs” in JP Court – Serves the same function (Rule 505.2)
- Also called a Writ of Possession in foreclosure case.

23

Delivery of Property – TRCP 308

- The court shall cause its judgments and decrees to be carried into execution; and where the judgment is for personal property, and it is shown by the pleadings and evidence and the verdict, if any, that such property has an especial value to the plaintiff, the court may award a special writ for the seizure and delivery of such property to the plaintiff; and in such case may enforce its judgment by attachment, fine and imprisonment

24

Writ of Execution for Possession of or Value of Personal Property

TRCP 633

25

TRCP 633

- If the judgment be for the recovery of personal property or its value, the writ shall command the officer, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

26

Writ for Possession of or Value of Personal Property

- Commands the officer to take possession of a specific personal property and deliver to the party named within the writ.
- Should the officer be unable to take possession of the property, he is commanded to levy and execute on the property of the debtor to satisfy the value of the specific personal property listed in the writ.

27

Example of Language from Writ for Possession or Value:

TO ANY SHERIFF OR ANY CONSTABLE WITH THE STATE OF TEXAS: GREETING:

WHEREAS on the on 10/10/2023, in the Justice of The Peace, Pct. One Court of Williamson County, Texas, in Cause No. 1JC-22-1953, Plaintiff(s) recovered a judgment against Defendant(s), for liquidated damages in the sum of \$4,828.50 OR return of said vehicle, 2016 HYUNDAI ELANTRA VIN: 5NPDH4AE4GH694524, together with court costs in the amount of \$124.00 and post judgment interest at the rate of 8.5%. The defendant is entitled to the following credits to wit: \$0.00.

THEREFORE, you are commanded that out of the property of said Darryl Walton, subject to execution by law, you cause to be made as the sum as indicated above with interest as indicated above, together with all cost of suit as indicated below and also the cost of executing this writ and you will forthwith execute this writ according to law and the mandates thereof. In case a delivery thereof cannot be had of listed property, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered.

HEREIN FAIL NOT but make due return of this execution to said Justice Court within 30 days from the date of issuance hereof, with your return thereon endorsed showing how you have executed the same.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at Round Rock, Texas, this the 1/9/2024.

28

Writ of Execution on Money Judgment

TRCP 630

29

Execution on Money Judgment

- This type of writ requires the officer to seize non-exempt property in an amount to satisfy the judgment along with costs and any interest due. Rule 630.
- This writ will not list specific property, and the officer will have to work with the litigants to determine what property to levy on.
- This is the most common writ we see.

30

Text of TRCP 630

- “When an execution is issued upon a judgment for a sum of money, or directing the payment simply of a sum of money, it must specify in the body thereof the sum recovered or directed to be paid and the sum actually due when it is issued and the rate of interest upon the sum due. It must require the officer to satisfy the judgment and costs out of the property of the judgment debtor subject to execution by law”

31

General Forms & Guidelines for All Writs of Execution

32

Issuance of Writ

- Upon the request of a judgment creditor, or the creditor's agent or attorney, a Writ of Execution to enforce the judgment and collect the costs shall be prepared only by the clerk or Justice of the Peace that rendered the judgment.

33

Requisites of Writ – TRCP 629

- Describes judgment;
- Includes Bill of Costs;
- Requires execution according to its terms;
- Requires officer to make adjudged costs & further costs of executing writ;
- Requires the officer to make return.

34

Delivery of Writ

- The clerk / JP must deliver the writ to:
 - The Sheriff or Constable designated by the judgment creditor or the judgment creditors attorney; or
 - The judgment creditor or the judgment creditors attorney who must then deliver the writ to the sheriff or constable.

35

Multiple Writs

- Multiple Writs may be prepared at the same time or in succession, without requiring return of the prior writ or writs.
- Writs may be sent to different counties for service by the Sheriff's or Constables.
- If multiple writs are issued, the judgment creditor, or the judgment creditors agent or attorney must inform the officers to whom the writs are delivered that multiple writs are outstanding.

36

Time for Issuance - TRCP 627

- “If no supersedeas bond or notice of ap, as required of agencies exempt from filing bonds, has been filed and approved, the clerk of the court or justice of the peace shall issue the execution upon such judgment upon application of the successful party or his attorney after the expiration of thirty days from the time a final judgment is signed...”

37

Execution Within 30 Days of Judgment – TRCP 628

- “Such execution may be issued at any time before the 30th day upon the filing of an affidavit by the plaintiff in the judgment or his agent or attorney that the defendant is about to remove his personal property subject to execution by law out of the county, or is about to transfer or secrete such personal property for the purpose of defrauding his creditors”

38

Stay of Execution – Justice Court – TRCP 635

- At any time within 10 days of judgment, justice court may grant a stay of execution.
 - Stay for three months from date of judgment
 - Judgment debtor must provide sufficient sureties
 - Sureties payable to successful party
 - Debtor may file an affidavit stating the issuance of an execution would “cause a sacrifice of his property which would not likely be caused should said execution be stayed.”

39

Time Computation – TRCP 5, 500.5

- Excludes date of issuance
- Includes every day, including Saturday, Sunday and legal holidays
- Includes the last day of the period.

40

- <https://www.timeanddate.com/date/duration.html>

Start Date

Month: Day: Year: Date: Add/Subtract: Years: Months: Weeks: Days:

9	/	22	/	2023	<input type="button" value="Calendar"/>	<input type="button" value="(+ Add)"/>	<input type="button" value="▼"/>	<input type="text"/>	90				
---	---	----	---	------	---	--	----------------------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----

Today Include the time Include only certain weekdays

Repeat

From **Friday, September 22, 2023**
Added 90 days

Result: Thursday, December 21, 2023

41

No. 1JC-20-0552

Plaintiff Elizabeth Pille; Patrick Pille JUSTICE COURT PRECINCT 1 In the Justice Court of
v. Leroy Martinez AUG 15 2022 Williamson County, Texas
Defendant § WILLIAMSON COUNTY TEXAS Precinct One

REQUEST FOR ISSUANCE OF A WRIT OF EXECUTION

As the party awarded judgment, or that party's authorized agent, I hereby request the issuance of a **WRIT OF EXECUTION** on the above styled and numbered cause.

I understand that before a **WRIT OF EXECUTION** can be issued thirty days must have passed since the date of judgment unless I have requested and granted waiver for good cause shown. I further understand that, if necessary, the Constable's Office can only confiscate and auction the NON-EXEMPT personal property of the defendant and that members of the Constable's Office can not force their way into a person's home in order to levy upon their property.

The following information is true and correct to the best of my knowledge.

Amount previously collected on judgment: \$0.00 Amount of the Judgment: \$2448.36

Debtor's Full Name Leroy Martinez
Debtor's last known HOME address 2201 North Drive
City Taylor State TX Zip Code 76574

Debtor's last known WORK address ProPainting, Power Washing; 2201 North Drive
City Taylor State TX Zip Code 76574

Debtor's Work Phone #: 512-955-9974 Debtor's Home Phone #: _____

List any known non-exempt personal property owned by the Debtor:

1. 2000 Toyota 4-Runner; plate FFR 1256; JT3GN86R5Y0176403
2. (defendant may likely may not have a valid driver's license)
3. _____
4. _____

30 days/ ASAP

Elizabeth A. Pille
Signature of Person Requesting WRIT OF EXECUTION
Phone Number 512 587 6442
Work Number 512 779 7323

42

Writ of Execution

629, 622

C-1-CV-23-000128

THE STATE OF TEXAS
COUNTY OF TRAVIS

FUNDATION GROUP, LLC, Plaintiff vs. PRECISION MACHINED COMPONENTS, INC., Defendant

TO ANY SHERIFF OR ANY CONSTABLE WITHIN THE STATE OF TEXAS:

Whereas **FUNDATION GROUP, LLC Plaintiff on 01/06/2023 in County Court at Law #2 of Travis County, Texas, recovered foreign judgment against PRECISION MACHINED COMPONENTS, INC. and HOWARD A. MOORE, Defendants, whose last known address is 608 E. Austin Ave., Round Rock, TX 78738, for the sum of \$25,133.99, plus post-judgment interest on said indebtedness from 04/08/2022, at the rate of 6% per annum until date of entry of this judgment; plus \$1,586.00, for attorney's fees, AND all costs of court.**

AND WHEREAS said judgment is entitled to the following credits: NONE

THEREFORE you are commanded to proceed without delay to levy upon property of said Defendants found in your county not exempt from execution and sell same according to law in satisfaction of said judgment, including the costs of executing this writ, less the credits hereinabove set out.

→ **HEREIN FAIL NOT**, but make due return of this execution to said County Clerk on or before **90 days** from the date hereof, with your return thereon endorsed showing how you have executed the same.

Issued on this the 28th day of February, 2023, by Dyana Limon-Mercado, County Clerk, Travis County, Texas.

By  507.4
I Sotelo, DEPUTY

Attorney:
IAN ANDREW MCCARTHY
3821 JUNIPER TRCE STE 108
AUSTIN TX 78738

District/Court 
County

43

Command

Now, THEREFORE, you are hereby commanded that of the goods and chattels, lands and tenements of the said Joe C. Rosales And Laura Rosales, Jointly And Severally you cause to be made the sum of \$4,009.14 With Interest Thereon At The Rate Of 11.45% Per Annum From January 13, 2000 Until Paid; And Attorney's Fees In The Sum Of \$1,336.00 With Interest Thereon At The Rate Of 10% Per Annum From 1-21-2003 Until Paid And That All Costs Of Court Herein Are Assessed Against Defendants

and the further sum of \$342.00 Dollars, cost of suit together with your legal fees, and commissions for collecting the same, and the officer executing this writ shall execute the same according to law and the mandates hereof.

HEREIN FAIL NOT, and have you this writ showing how you have executed the same, together with said moneys collected as herein directed, before the above Court at the Courthouse thereof in Corpus Christi, Texas, (1) within **90 days** from the date of the issuance of this writ.

Issued and given under my hand and seal of said Court in Corpus Christi, Nueces County,
Texas on this 12th day of October 2021.

44

ALIAS EXECUTION
(With Bill of Costs)

Cause No. 02-61953-00-0-4

475748

THE STATE OF TEXAS

To the Sheriff or Constable of Any County of the State of Texas, Greetings;

WHEREAS, at the Regular Term of the County Court at Law #4 of Nueces County, Texas on the 21st day of January, 2003, in a certain cause styled: **FROST NATIONAL BANK vs. ROSALES, JOE C., ET AL**, and numbered **02-61953-00-0-4** on the Civil Docket of said Court, Frost National Bank, Plaintiff recovered a judgment against Joe C. Rosales And Laura Rosales, Jointly And Severally for \$4,009.14 With Interest Thereon At The Rate Of 11.45% Per Annum From January 13, 2000 Until Paid; And Attorney's Fees In The Sum Of \$1,336.00 With Interest Thereon At The Rate Of 10% Per Annum From 1-21-2003 Until Paid And That All Costs Of Court Herein Are Assessed Against Defendants. (Joe C. Rosales, 1000 Morningside St., Angleton, Tx 77515).

45

Duties of the Officer

46

Duties – Indorsement (TRCP 636)

- The officer receiving the execution shall indorse thereon the exact hour and day when he received it.
- If he receives more than one on the same day against the same person he shall number them as received.

47

Duties – Service – TRCP 21a

- (a) Methods of Service. Every notice required by these rules, and every pleading, plea, motion, or other form of request required to be served under Rule 21, other than the citation to be served upon the filing of a cause of action and except as otherwise expressly provided in these rules, may be served by delivering a copy to the party to be served, or the party's duly authorized agent or attorney of record in the manner specified below:

48

Methods of Service – TRCP 21a

- (2) Documents Not Filed Electronically. A document not filed electronically may be served in person, by mail, by commercial delivery service, by fax, by email, or by such other manner as the court in its discretion may direct.

49

Service Fees

- Differ by county;
- Must be included in county's annual Fee Schedule in order to be collected;
- Set by Commissioners Court before October 1st each year;
- Effective date is January 1st of following year;
- Find it here:
<https://comptroller.Texas.gov/transparency/local/sheriffs/>.
- LGC 118.131

50

Payment of Service Fees

- Constable may require payment prior to serving process from an out-of-county suit;
- Added to court costs if not paid within 10 days of request for payment;
- Not collected if Statement of Inability to Afford Payment of Court Costs (pauper's affidavit) has been filed with court. Fee is then added to court costs.
- TRCPs 126, 129, 145

51

Duties – Return – TRCP 654

- The levying officer shall make due return of the execution, in writing and signed by him officially, stating concisely what such officer has done in pursuance of the requirements of the writ and of the law.
- The return shall be filed with the clerk of the court or the justice of the peace, as the case may be.
- The execution shall be returned forthwith if satisfied by the collection of the money or if ordered by the plaintiff or his attorney indorsed thereon.

52

Duties of Officer – Local Gov't Code Sec. 86.021

- May perform service anywhere in the officer's county
- May serve process in his county or contiguous county
- All process served is presumed served in the officer's official capacity
- Collected fees shall be deposited with the treasurer of his county.

53

Duties of Officer – Property to be Levied - TRCP 637

- Officer does not have a duty to levy on or sell property not within the officer's county.
 - Exceptions exist for property partially within the officer's county.
- Make demand on the defendant for payment of the judgment.
- Judgment debtor has the right to first point out non-exempt property for levy and sale.

54

Demand Letter

- Case Information, Style, etc.
- Rule 637 designation
- Case Payoff
- Post Judgment Interest (if applicable)
- Payments made through the Constable's Office
- Authority of to Levy

55

Demand Letter Example

INTEGRATED ENVIRONMENT , LLC D/B/A INTEGRATED
ENVIRONMENTAL
5400 W WOODLAWN AVE
AUSTIN , TX 78717

Reference : Cause # 21-1383-CC4 Court: WILLIAMSON COUNTY COUNTY COURT AT LAW #4

UNITED RENTALS(NORTH AMERICA), INC.

VS.

INTEGRATED ENVIRONMENT, LLC D/B/A INTEGRATED ENVIRONMENTAL AND JIMMY JONES

Judgment, Interest and Costs Due if paid by 11/08/2023 \$160,435.60

Payment Made to : Williamson County

This is to inform you a Writ of Execution was received by this office on 08/21/2023. The execution was filed against you by UNITED RENTALS (NORTH AMERICA), INC. and requires immediate response. DEMAND IS HEREBY MADE for the above amount (s) and must be paid by cash, cashier's check, or credit card and paid to the Constable's office named above.

Unless the above amount is received by our office immediately, we will proceed with the execution of the Writ and seize sufficient amounts of your non-exempt property to sell according to law to satisfy the above judgment. If payment is not forthcoming you have the right to designate property owned by you to be levied upon to satisfy the judgment. This notice is being provided to you as a courtesy with the intention of saving you time and additional costs. You may contact the deputy assigned to this case between the hours of 9:00 am and 4:30 pm Monday through Friday at (512) 244-8650.

All payments must be made through this office to assure proper credit (s) toward the judgment.

Thank you,

Patrick Youngren
Constable Precinct 1

56

Insufficient or No Designation – TRCP 637, CPRC Sec. 34.065

- If in the opinion of the officer, the property so designated will not sell for enough to satisfy the execution and costs of sale, he shall require an additional designation by the defendant.
- If no property is designated by the defendant, the officer shall levy and execute upon any property of the defendant subject to execution.

57

Duties – Calculate the Amount Due

- Calculate the judgment amount including all cost, interest, and fees.
- Officers' duty to calculate interest is derived from Texas Finance Code 304.005 (accrual of interest ends when judgment satisfied)
- May be helpful to request or obtain a copy of the judgment from the clerk.

58

Case Payoff Example

Case Payoff							
UNITED RENTALS (NORTH AMERICA), INC. vs. INTEGRATED ENVIRONMENT , LLC D/B/A INTEGRATED ENVIRONMENTAL AND JIMMY JONES							
Civil #	C1-23151514	Starting Balance	Adjustment	Accrual	Total Amount	Billing Balance	Debtor Balance
Commission		0.00	0.00	7,176.92	7,176.92	0.00	7,176.92
Writs		200.00	0.00	0.00	200.00	0.00	200.00
Interest on Pre-Judgment Amount		0.00	0.00	10,233.46	10,233.46	0.00	10,233.46
Interest on Attorney Fee		0.00	0.00	339.91	339.91	0.00	339.91
Interest on Court Cost		0.00	0.00	72.52	72.52	0.00	72.52
Interest on Principal		0.00	0.00	22,337.12	22,337.12	0.00	22,337.12
Pre-Judgment Amount		36,127.20	0.00	0.00	36,127.20	0.00	36,127.20
Attorney Fee		1,200.00	0.00	0.00	1,200.00	0.00	1,200.00
Court Cost		256.00	0.00	0.00	256.00	0.00	256.00
Principal		78,856.76	0.00	0.00	78,856.76	0.00	78,856.76
		116,639.96	0.00	40,159.93	156,799.89	0.00	156,799.89

59

Calculating Interest

- Prejudgment interest is computed as simple interest and does not compound. (Fin. Code 304.104) The writ should provide a date for the beginning of accrual and it ends the day before the date of judgment.
- Post-judgment interest accrues during the period beginning on the date the judgment is rendered and ending on the date the judgment is satisfied, and compounds annually. (Fin. Code 304.005, 304.006)

60

Judgment and Writ Must State Rate

- Finance Code Sec. 304.001. A money judgment of a court in this state must specify the post-judgment interest rate applicable to that judgment.
- TRCP 630 - When an execution is issued upon a judgment for a sum of money, or directing the payment simply of a sum of money, it must specify in the body thereof the sum recovered or directed to be paid and the sum actually due when it is issued and the rate of interest upon the sum due.

61

Interest Rate Language in a Writ

THEREFORE, you are hereby commanded that you proceed to seize and sell the above described property, as under execution, and by virtue of this order of sale place the purchaser of the same in possession thereof within 30 days after the day of sale, and you apply the proceeds thereof to the payment and satisfaction of said sum of ONE THOUSAND SEVEN HUNDRED SEVENTY ONE DOLLARS AND 54/100 (\$1,771.54); reasonable attorney's fees in the amount of \$3,650.00; court costs, post judgement interest thereon at the rate established by law from October 22, 2019 until paid, minus above named credit of \$1,084.79 together with your legal fees and commissions for executing this writ. And if the said property shall sell for more than sufficient to pay off and satisfy said sums of money, then you are hereby directed to pay over the excess thereof to the Registry of the Court. But if you fail to find said property or if the proceeds of such sale be insufficient to satisfy said judgment, then you are directed to make the money, or any balance thereof remaining unpaid, out of any other property of the defendant, as in case of ordinary executions.

HEREIN FAIL NOT, but due return make hereof within 90 days, showing how you have executed the same.

GIVEN under my hand and seal of the District Court of Williamson County, Texas at my office in Georgetown, Texas this 11th day of November 2022.

LISA DAVID, District Clerk,
Williamson County, Texas

  Deputy
Teresa Maskunas

62

Post-Judgment Interest Rate

- The post-judgment interest rate is published rate by the Texas Office of Consumer Credit Commissioner. This rate will be used unless the parties agreed to a different rate in a contract. (will be between 5-15%)

THE FOLLOWING PUBLICATIONS AND RATES ARE ISSUED BY THE OCCC

Use the link below to access Current and Archived Texas Credit Letters

- Current and Archived Texas Credit Letter

RATES AND RATE SUMMARIES

The Texas Credit Letter is published each Tuesday by the Office of Consumer Credit Commissioner and reports rate ceilings for future weeks. On a quarterly basis (March, June, September, December), the rates below are calculated on the first of the month by the Consumer Credit Commissioner using the formulas found in the Texas Finance Code, and reported in the first issue of the month in the Texas Credit Letter.

CURRENT RATES

Postjudgment Interest Rate: 6.75%
January 2026

Weekly Ceiling: 18.00%
01/12/26-01/18/26

Monthly Ceiling: 18.00%
for the month of January

63

What if you are unsure on your calculation?

64

32

Partial Payments

- A judgment creditor has no obligation to accept partial payments on a judgment unless stated in a judgment.
- If the judgment creditor does accept a partial payment, the 'declining principal' formula described by the Texas Supreme Court in *Brainard vs. Trinity Universal Ins. Co.*, 216 S.W.3d 809 (Tex. 2006) applies.

65

Partial Payments (cont.)

- A judgment creditor can only recover interest on the amount that they have lost the use of.
- Partial payment first applied to interest. (*Hand & Wrist Center of Houston, P.A. v. Republic Services, Inc.* (Tex. App. Houston (14th Dist.), 401 S.W.3d 712 at 721

66

When can the constable withhold distribution of funds ?

67

Levy & Sale Procedure

68

34

Levy on Real Property

TRCP 639, 646a

- “In order to make a levy on real estate, it shall not be necessary for the officer to go upon the ground, but it shall be sufficient for him to indorse such levy on the writ.”

69

Division of Real Property

CPRC Sec. 34.002 & 34.003

- If property consist of multiple lots, the officer should sell the lots individually. (exception applies)
- If rural property, the Debtor may divide the property into lots not less than 50 acres.
- May not be a delay tactic.
- Division costs incurred are not a cost of the sale.

70

Notice of Levy Example



Mickey Chance
Williamson County Constable Precinct 1
1801 E. Old Settlers Blvd #105
Round Rock, TX 78664
Office (512) 244-8650 • Fax (512) 244-8662



Notice of Levy

Under and by virtue of a certain Writ of Execution issued by the 26TH JUDICIAL DISTRICT COURT of Williamson County, Texas, on the 8th day of September 2022, in Cause No. 15-1157-C26, Styled JESSE B. ARQUERO VS U.S. BANK NATIONAL ASSOCIATION with costs of:

Commission	\$12,511.05
Service Fee	\$150.00
Pre-Judgment Amount	\$1,161.79
Court Cost	\$195.00
Interest on Principal	\$57,051.79
Principal	\$224,367.79
 Total	 \$295,437.42

Therefore I, Mickey Chance, Constable of Constable Precinct 1 of Williamson County, Texas, on this the 28th day of September 2022, have levied on and have seized all rights title, interest and claim which said defendant(s), JESSE B. ARQUERO, has in the following described Real Property situated in Williamson County, Texas, viz:

LOT 1, BLOCK D, OF CHANDLER CREEK SECTION 10, AN ADDITION IN WILLIAMSON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET S, SLIDES 353-356, OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS

Said property being more fully described as follows:

1206 Sheltie Lane, Round Rock Texas, 78664

Witness my hand this 28th day of September 2022.

Mickey Chance, Constable
Williamson County Constable Precinct 1

By: 
Lezene Brinkman Deputy

71

The attorney representing the judgment creditor informs you the judgment debtor resides in a neighboring state and has directed you to levy on a parcel of non-exempt real property owned by the judgment debtor.

How to you proceed?

72

Sale of Real Property TRCP 646a.

- Real property taken by virtue of any execution shall be sold at public auction, at the courthouse door of the county, unless the court orders that such sale be at the place where the real property is situated, on the first Tuesday of the month, between the hours of ten o'clock, a.m. and four o'clock, p.m.
- Exception exists for situations when the court require the real property to be sold at the location of the property.

73

Sale of Real Property – When and Where

- Must be sold while the writ is still alive 30, 60 or 90 days.
- Sale must be held the first Tuesday of the month (exception for July 4th)
- Sale to be conducted at the courthouse door unless otherwise ordered by court
- Sale must be conducted between 10 AM and 4PM

74

Sale of Real Property – Notice & Deed

- Notice delivered to Debtor and their attorney (Rule 21a)
- Notify lienholders
- Notice must be posted at Courthouse door/designated area.
- Notice shall be given by publication
- Officer must execute Constable's/Sheriff's deed to successful bidder

75

Real Property Sale Notice TRCP 647

- A brief description of the property to be sold, as well as give the number of acres, original survey, locality in the county, and the name by which the land is most generally known
- Notice must be posted at Courthouse door/designated area.

76

Real Property Sale Notice – Publication TRCP 647

- Published in the English language in a newspaper published in the county in which the property is located
- Must be published at least once a week for three consecutive weeks preceding the date of the sale

77

Real Property Sale Notice – Timing TRCP 647

- First publication must be at least 20 days preceding the date of the sale.
- Must contain a statement of the authority by virtue of which the sale is to be made.

78

34.015 Tax Code Statement Example

 50-208
**WRITTEN STATEMENT ABOUT DELINQUENT TAXES
REQUIRED TO PURCHASE AT TAX FORECLOSURE SALE**

County tax office name: Williamson County Tax Assessor-Collector Date of This Statement: _____ / _____ / _____
Address: 904 S. Main St. Georgetown, TX 78626 This Statement Expires: _____ / _____ / _____
Phone (area code & number): (512) 943-1601

Property Tax Code Section 34.015 requires a purchaser at a tax foreclosure sale to obtain a statement of no delinquent taxes from the county tax office where the property is located. This written statement is for the person named in Step 1. This statement will expire on the date noted above, which is 90 days after date of this statement. If delinquent taxes listed on this statement are subsequently paid, this person will need to request a new statement to remove those years of delinquency.
THIS IS NOT A TAX CERTIFICATE.

Step 1: Name, address, request date	Requesting person/company's name: _____ Current mailing address: _____ City, state: _____ ZIP code +4: _____ Phone (area code and number): _____ Date of Request: _____																											
Step 2: Properties currently and formerly owned by person/ company listed in Step 1	This statement is for all properties currently and formerly owned by the person/company listed in Step 1 and located in this county or in any school district or city located in part in this county. The properties are listed on the requesting person's Request for Written Statement about Delinquent Taxes for Tax Foreclosure Sale dated _____ / _____ / _____. This person's request is available at the county tax office named above.																											
Step 3: Delinquent taxes owed by person/ company listed in Step 1	<input type="checkbox"/> The person/company listed in Step 1 owes no delinquent taxes on properties currently or formerly owned and located in this county or in any school district or city located in part in this county. <input type="checkbox"/> The person/company listed in Step 1 owes delinquent taxes on properties currently or formerly owned and located in this county or in a school district or city located in part in this county in the following amounts: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Year(s) Delinquent</th> <th style="width: 25%;">County/School/City Name (and Collector(s) Name if Not Step 5) *</th> <th style="width: 25%;">Total Delinquent Taxes, Penalties & Interest**</th> </tr> </thead> <tbody> <tr><td>1. _____</td><td>_____</td><td>\$ _____</td></tr> <tr><td>2. _____</td><td>_____</td><td>\$ _____</td></tr> <tr><td>3. _____</td><td>_____</td><td>\$ _____</td></tr> <tr><td>4. _____</td><td>_____</td><td>\$ _____</td></tr> <tr><td>5. _____</td><td>_____</td><td>\$ _____</td></tr> <tr><td>6. _____</td><td>_____</td><td>\$ _____</td></tr> <tr><td>7. _____</td><td>_____</td><td>\$ _____</td></tr> <tr><td>8. _____</td><td>_____</td><td>\$ _____</td></tr> </tbody> </table>	Year(s) Delinquent	County/School/City Name (and Collector(s) Name if Not Step 5) *	Total Delinquent Taxes, Penalties & Interest**	1. _____	_____	\$ _____	2. _____	_____	\$ _____	3. _____	_____	\$ _____	4. _____	_____	\$ _____	5. _____	_____	\$ _____	6. _____	_____	\$ _____	7. _____	_____	\$ _____	8. _____	_____	\$ _____
Year(s) Delinquent	County/School/City Name (and Collector(s) Name if Not Step 5) *	Total Delinquent Taxes, Penalties & Interest**																										
1. _____	_____	\$ _____																										
2. _____	_____	\$ _____																										
3. _____	_____	\$ _____																										
4. _____	_____	\$ _____																										
5. _____	_____	\$ _____																										
6. _____	_____	\$ _____																										
7. _____	_____	\$ _____																										
8. _____	_____	\$ _____																										

* See attached list of names and addresses of tax collectors.
 ** Amount is based on the date of request; amount will change at the beginning of the next delinquent month.

81

Tax Certificate Requirement CPRC Sec. 34.0445

- Tax Certificate only required in counties with a population over 250,000 people or in those where the commissioners court has adopted the provisions of Civil Practice and Remedies Code 34.0445, only people qualified under that section may purchase real property at an execution sale.
- It is common for the Commissioners to adopt this provision if not required already

82

Proxy Bidding

CPRC Sec. 34.0445

- An individual may not bid on or purchase the property in the name of any other individual. An officer conducting a sale under this subchapter may not execute a deed in the name of or deliver a deed to any person other than the person who was the successful bidder.

83

Sale of Personal Property

TRCP 650

- Must be sold while the writ is still alive (30, 60 or 90 days).
- Sale can occur any day of the week.
- Sale must be conducted between 10 AM and 4PM
- Notice shall be given by posting the notice for 10 consecutive days immediately prior to the date of the sale.

84

Personal Property Sale Example



Williamson County Precinct 1
1801 E. Old Settlers Blvd #105
Round Rock, TX 78664
Office (512) 244-8650



NOTICE OF CONSTABLE'S SALE PERSONAL PROPERTY

BY VIRTUE OF A WRIT OF EXECUTION ISSUED BY THE CLERK OF THE 425TH DISTRICT COURT OF WILLIAMSON COUNTY, STATE OF TEXAS, IN A CERTAIN CAUSE NUMBERED 19-1499-F425 ON A JUDGMENT RENDERED IN SAID COURT ON 10TH DAY OF DECEMBER A.D. 2021 AND DIRECTED AND DELIVERED TO ME AS DEPUTY CONSTABLE OF PCT 1 WILLIAMSON COUNTY, TEXAS. I HAVE ON THE 30TH DAY OF JANUARY A.D. 2023 UPON AND WILL OFFER FOR SALE ON THE 28TH DAY OF FEBRUARY, 2023, A.D. BETWEEN THE HOURS OF 9:00 A.M. AND 4:00 P.M. AT PUBLIC AUCTION, AT THE PUBLIC AUCTION, THE HIGHEST BIDDER, FOR CASH IN HAND, AT GASTON & SHEEHAN AUCTIONEERS LOCATED AT 1420 FARM TO MARKET 685, PFLUGERVILLE, TEXAS, ALL THE RIGHT, TITLE AND INTEREST, IF ANY OF JABIER ALLUE LABANINO AND TO THE FOLLOWING PERSONAL PROPERTY TO WIT:

2013 MERCEDES BENZ (VIN WDDGF4HB6DA845418)



THE ABOVE PROPERTY IS LEVIED ON AS THE PROPERTY OF JABIER ALLUE LABANINO AND WILL BE SOLD TO SATISFY A JUDGMENT IN THE 425TH DISTRICT COURT OF WILLIAMSON COUNTY RENDERED ON THE 10TH DAY OF DECEMBER A.D. 2021 IN FAVOR OF ELVIRA M. HERNANDEZ, AND AGAINST JABIER ALLUE LABANINO.

FOR THE PRINCIPAL, INTEREST AND ALL COSTS ACCRUING BY VIRTUE OF SAID SUIT THE TOTAL SUM OF \$20,596.41

NOTICE TO JUDGMENT DEBTOR: IF THERE IS ANY PROPERTY, REAL OR PERSONAL, YOU WISH TO POINT OUT FOR LEVY IN LIEU OF THE ABOVE-DESCRIBED PROPERTY, YOU MUST CONTACT THIS OFFICE IMMEDIATELY.

NOTICE TO BIDDERS: ALL SALES SHALL BE BY CONSTABLE'S BILL OF SALE AND ARE WITHOUT WARRANTY AS TO TITLE OR CONDITION, EXPRESS, OR IMPLIED, AS EVIDENCED BY CONSTABLE'S BILL OF SALE. YOU ARE BUYING WHATEVER INTEREST, IF ANY, THE DEBTOR HAS IN THE PROPERTY. PURCHASE OF THE DEBTOR'S INTEREST IN THE PROPERTY MAY NOT EXTINGUISH ANY LIENS OR SECURITY INTERESTS HELD BY OTHER PERSONS. IF YOU HAVE QUESTIONS, YOU SHOULD CONSULT THE COUNSEL OF YOUR CHOICE.

GIVEN UNDER MY HAND ON THIS 8TH DAY OF FEBRUARY A.D. 2023.

85

Sale of Personal Property – Location TRCP 649

- “Personal property levied on under execution shall be offered for sale on the premises where it is taken in execution, or at the courthouse door of the county, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless the same be present and subject to the view of those attending the sale...”
- Exception for Livestock, Shares of stock

86

Preparing for the Sale

- Set the sale date
- Establish minimum/opening bid.
- Calculate case pay off for sale date w/ cost, including publication
- Find your publication dates (if applicable)
- Prepare sale notice
- Post notice at Courthouse door
- Mail sale notice to JD and JC
- Is the JC going to bid on the property?

87

Checklist Example

Real Property Sale Checklist																																																	
+	<table border="1"> <tr><td>Judgment Debtor</td><td></td></tr> <tr><td>Judgment Date</td><td></td></tr> <tr><td>Issue Date</td><td></td></tr> <tr><td>Came to Hand</td><td></td></tr> <tr><td>Levy Date</td><td></td></tr> <tr><td>Expiration Date</td><td></td></tr> <tr><td>Sale Date</td><td></td></tr> <tr> <td colspan="2" style="text-align: center;">Publication Dates</td> </tr> <tr><td>1st Publication</td><td></td></tr> <tr><td>2nd Publication</td><td></td></tr> <tr><td>3rd Publication</td><td></td></tr> <tr><td>Affidavit of Publication</td><td></td></tr> <tr> <td colspan="2" style="text-align: center;">Postings</td> </tr> <tr><td>Courthouse (REQ.)</td><td></td></tr> <tr><td></td><td></td></tr> </table> <ul style="list-style-type: none"> • Sale date must be first Tuesday of the month, 10:00 AM at the Williamson County Justice Center Courthouse Annex. Unless July 4th or January 1st. (TRCP 646a & CPRC 34.041C) • Publication must run once a week for three consecutive weeks preceding such sale, 1st publication not less than twenty days immediately preceding the day of sale. (TRCP - 647) • Email Sale Notice to the Newspaper. Must be in the Newspaper hands by the Thursday prior at 10:00 AM to make the Sunday publication. Georgetown Sun (512) 930-482 legals@wilcosun.com • Posting at the "Courthouse door" is always required. Posting of two additional sale notice only required when no publican exist in your county. (TRCP - 647) <table border="1"> <tr><td>Mail Copy of sale notice to Judgment Debtor (regular & Cert) TRCP 647</td><td></td></tr> <tr><td>Mail Copy of sale notice to Judgment Debtor's Atty (regular & Cert) TRCP 647</td><td></td></tr> <tr><td>Mail a copy of sale notice to lien holder (if applicable) Judgment creditor to furnish this information.</td><td></td></tr> <tr><td>File notice of lien with County Clerk - Retain file stamped copy</td><td></td></tr> <tr> <td colspan="2" style="text-align: center;">Calculate case pay off for the date of the sale, add the Constables Deed fee & single notice posting fee & publication cost</td> </tr> <tr><td>Determine Obtain starting / Discuss with Judgment Creditor</td><td></td></tr> <tr><td>Find out if there are any liens on the property, Judgment debtor should furnish this information</td><td></td></tr> <tr><td>Find out if the Judgment Creditor is bidding on the property. (Credit to Judgment) (Pay Associated Cost, Constable Deed, Posting, Constable's Commissions)</td><td></td></tr> <tr><td>Post-sale release lien on property with County Clerk, when filing the release of lien be sure to provide a copy of the Notice of lien previously filed (good practice, not a legal requirement)</td><td></td></tr> </table>	Judgment Debtor		Judgment Date		Issue Date		Came to Hand		Levy Date		Expiration Date		Sale Date		Publication Dates		1 st Publication		2 nd Publication		3 rd Publication		Affidavit of Publication		Postings		Courthouse (REQ.)				Mail Copy of sale notice to Judgment Debtor (regular & Cert) TRCP 647		Mail Copy of sale notice to Judgment Debtor's Atty (regular & Cert) TRCP 647		Mail a copy of sale notice to lien holder (if applicable) Judgment creditor to furnish this information.		File notice of lien with County Clerk - Retain file stamped copy		Calculate case pay off for the date of the sale, add the Constables Deed fee & single notice posting fee & publication cost		Determine Obtain starting / Discuss with Judgment Creditor		Find out if there are any liens on the property, Judgment debtor should furnish this information		Find out if the Judgment Creditor is bidding on the property. (Credit to Judgment) (Pay Associated Cost, Constable Deed, Posting, Constable's Commissions)		Post-sale release lien on property with County Clerk, when filing the release of lien be sure to provide a copy of the Notice of lien previously filed (good practice, not a legal requirement)	
Judgment Debtor																																																	
Judgment Date																																																	
Issue Date																																																	
Came to Hand																																																	
Levy Date																																																	
Expiration Date																																																	
Sale Date																																																	
Publication Dates																																																	
1 st Publication																																																	
2 nd Publication																																																	
3 rd Publication																																																	
Affidavit of Publication																																																	
Postings																																																	
Courthouse (REQ.)																																																	
Mail Copy of sale notice to Judgment Debtor (regular & Cert) TRCP 647																																																	
Mail Copy of sale notice to Judgment Debtor's Atty (regular & Cert) TRCP 647																																																	
Mail a copy of sale notice to lien holder (if applicable) Judgment creditor to furnish this information.																																																	
File notice of lien with County Clerk - Retain file stamped copy																																																	
Calculate case pay off for the date of the sale, add the Constables Deed fee & single notice posting fee & publication cost																																																	
Determine Obtain starting / Discuss with Judgment Creditor																																																	
Find out if there are any liens on the property, Judgment debtor should furnish this information																																																	
Find out if the Judgment Creditor is bidding on the property. (Credit to Judgment) (Pay Associated Cost, Constable Deed, Posting, Constable's Commissions)																																																	
Post-sale release lien on property with County Clerk, when filing the release of lien be sure to provide a copy of the Notice of lien previously filed (good practice, not a legal requirement)																																																	

88

Post-Sale/Collection Procedures

89

Distribution of Funds

- Any proceeds left over after the judgment and costs have been satisfied must be paid to the judgment debtor. CPRC § 34.047.
- If an officer fails or refuses to deliver money collected under an execution when demanded by the person entitled to receive the money, the officer and the officer's sureties are liable to the person for the amount collected and for damages at a rate of one percent a month on that amount if proven by the injured party. CPRC § 34.067

90

Conveyance of Title After Sale CPRC Sec. 34.045

- When the sale has been made and its terms complied with, the officer shall execute and deliver to the purchaser a conveyance of all the right, title, interest, and claim that the defendant in execution had in the property sold.

91

Bill of Sale & Deed

- Heading including the court ordering the sale, case name, and the cause number;
- Description of the officer's authority to levy on the property;
- Date of the officer's levy;
- Date of sale;
- Description of the judicial sale, including notice of sale;

92

Bill of Sale and Deed (cont.)

- Description of price and payment by the winning bidder;
- Legal description of the property;
- Name and signature of the selling officer;
- Disclaimer that there are no warranties and only the judgment debtor's interest conveys; and
- Any other disclaimers the officer believes to be necessary.

93

Constable's Deed

- Constable's Deed, not a warranty deed.
- May be prepared by the attorney for the judgment creditor
- Signed by the elected official

94

Relevant Policies to Consider

- Type of payment accepted
- Time to remit payment
- Funds clear
- Purchasing on behalf of a corporation
- Bidder / Purchaser to obtain tax statement (when relevant)

95

Constable Deed Example

CONSTABLE DEED

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

Know All Men by These Presents:

"NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER."

THAT WHEREAS, by virtue of an Order of Sale issued out of the 26th District Court of Williamson County, Texas, in favor of

Arbor Village Condominiums
as Plaintiff(s)

and

Patrick Burch
Defendant(s),

on certain Judgment and Decree of Sale, rendered on the 31st day of March, A.D. 2022 and directed and delivered to Mickey Chance, Constable Pct. 1 of Williamson County, Texas, commanding me to levy upon, seize and sell the land or lots herein described to satisfy said Judgment, the same being for penalties, interest and costs due on the hereinafter described lands.

96

Personal Property Transfer (Bill of Sale) Example



CONSTABLE MICKEY CHANCE
 Williamson County Precinct 1
 1801 E. Old Settlers Blvd #105
 Round Rock, TX 78664
 Office (512)244-8650



The State of Texas
 County of Williamson

Bill of Sale

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, by virtue of a certain Writ of Execution Cause Number 19-1498-F425 issued out of the 425th District Court of the County of Williamson in the State of Texas, in favor of Elvira Maria Hernandez and against Jabier Allue Labanino on a certain judgment rendered in said Court on the 10th day of December, A.D. 2021 and directed and delivered to me as Constable of Williamson County commanding me as Deputy Constable as aforesaid, did on the 30th day of January, A.D. 2023, levy upon and take into my possession the property hereinafter described, and after advertising the same as required by law. I did on the 28th day of February, A.D. 2023, within the hours prescribed by law, at 1420 Farm to Market 685, Pflugerville, TX 78650 sell said property at public auction, when the same was struck off to Victor Camarena for the sum of \$4,050.00 Dollars, Victor Camarena being the highest secure bid therefore.

Now therefore in consideration of the premises, and the payment of said sum of \$4,050.00 Dollars, the receipt of which is hereby acknowledged, I, Patrick Youngren, Deputy Constable as aforesaid, have sold and delivered and by these presents do sell and deliver unto the said Victor Camarena, 106 Sunnyside Georgetown, Tx 78623 all right, title and interest which the said Jabier Allue Labanino had on the 28th day of February, A.D. 2023 in and to the following described personal property, to wit:

2013 MERCEDES-BENZ C250, VIN: WDDGF4HB0DA845418

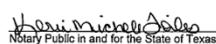
TO HAVE AND TO HOLD the same unto said heirs and assigns forever, as fully as I, as Constable as aforesaid, can sell, transfer and dispose of the same by virtue of said Writ of Execution.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this 28 day of February, A.D. 2023.

Mickey Chance, Constable Pct. 1
 Williamson County, Texas

By 
 Patrick Youngren, Chief Deputy Constable

Subscribed and sworn to before me on the 1 day of March, 2023


 Notary Public in and for the State of Texas



97

Return of Service TRCP 654

- “The levying officer shall make due return of the execution, in writing and signed by him officially, stating concisely what such officer has done in pursuance of the requirements of the writ and of the law. The return shall be filed with the clerk of the court or the justice of the peace as the case may be. The execution shall be returned forthwith if satisfied by the collection of the money or if ordered by the plaintiff or his attorney indorsed thereon.”

98

Return Example



Mickey Chance
 Williamson County Constable Precinct 1
 1801 E. Old Settlers Blvd #105
 Round Rock, TX 78664
 Office (512) 244-8650 • Fax (512) 244-8662



CONSTABLE'S EXECUTION/ORDER OF SALE RETURN

REAL PROPERTY SALE

Came to hand this 13 day of July 2023, at 10:48 AM.

Cause No: 20-1271-C26 Court 26th DISTRICT COURT - WILLIAMSON COUNTY TEXAS
 Plaintiff(s) Arbor Village Condominiums
 Defendant(s) Patrick Burch

Demand and service was made on Judgment Debtor:Patrick Burch

In Person

Tex. R. Civ. P. 21a: _____

Location: 8340 Fathom Cir. Unit 403 Austin, TX 78750

Date: 7/19/2023

Time: 7:43 AM

On the 14th day of July 2023, I as Deputy Constable of Pct. 1 Williamson County, did levy on the property of Patrick Burch, as Judgment Debtor to wit:

Unit 403, Building D, Arbor Village Condominiums, a Condominium Regime in Williamson County, Texas, according to the Condominium Declaration, Exhibits, Plats and Bylaws recorded in Volume 1, Page 1, et seq., Condominium Records of Williamson County, Texas; more commonly known as 8340 Fathom Circle, Unit 403, Austin, Texas 78750.

Notice of sale was published in the Williamson County Sun, a newspaper of general circulation in Williamson County Texas on 8/1/23, 8/20/23, and 8/27/23 for three consecutive weeks with the first publication being at least 20 days preceding the date of sale. Said advertisement stated the authority by which sale was to be made, the time of levy, and the time and place of the sale with a legal and common description of the property.

99

Amended Return CPRC Sec. 34.064

- Officer may file an amended return
- Corrects an error on the original return
- Must be filed within 30 days from notice or error
- Failure to amend or file a return punishable by contempt

100

Writs of Execution 102 – In Practice

Amber Myers, Director of Legal Outreach & Staff Attorney at TJCTC

101

Resources Reminder!

- www.txcourts.gov Texas Rules of Civil Procedure (TRCP)
- www.statutes.capitol.Texas.gov Statutes
- www.tjctc.org
 - Texas Civil Process Field Guide(updates coming soon)
 - Practical Guide to Writs of Execution Deskbook

102

Appeal Issues

103

Wrists During Appeal

- Appeals from courts other than justice courts DO NOT automatically enjoin the enforcement of the judgment
- The filing of an appeal does not prohibit the Judgment Creditor from enforcement of the judgment, this applies to Writs of Execution, Writs of Garnishment, Turnover Orders etc.

104

Interest During Appeal

- Post-judgment interest on money judgment begins on date of judgment and continues until judgment is satisfied.
- If case is appealed, interest does not accrue during an extension to file a brief (Finance Code Sec. 304.005)

105

Suspension of Enforcement During Appeal - TRCP 24.1

- A judgment debtor may supersede the judgment by:
 - Filing with the trial court clerk a written agreement with the judgment creditor for suspending enforcement judgment
 - Filing with the trial court clerk a good and sufficient bond
 - Making a deposit with the trial court clerk in lieu of a bond
 - Providing alternate security as ordered by the court

106

Writ of Supersedeas

- Officers are often notified by the judgment creditor that a supersedeas has been filed
- County, District, or JP Clerks may also notify the officer and send a copy of the writ

107

Writ of Supersedeas Example

WRIT OF SUPERSEDAEAS
THE STATE OF TEXAS
CAUSE NO. D-1-GN-16-005498

TO: TRAVIS COUNTY CONSTABLE

WHEREAS, NOVEMBER 21, 2018, in the 250TH JUDICIAL DISTRICT COURT of Travis County, Texas, in Cause No. D-1-GN-16-005498 styled LES BERGQUIST AND AUSTIN MAC REPAIR, LLC, AS SUCCESSOR - IN INTEREST - TO LES BERGQUIST vs. STREAM REALTY PARTNERS - AUSTIN, L.P AND LAMAR GATEWAY BACELINE HOLDINGS, LLC BACELINE INVESTMENTS, LLC, the DEFENDANT, LAMAR GATEWAY BACELINE HOLDINGS, LLC, recovered judgment against the PLAINTIFF, LES BERGQUIST AND AUSTIN MAC REPAIR, LLC consultant fees in the amount of \$10,331.00. BACELINE shall have and recover from Plaintiffs its reasonable attorney fees through time of trial in the amount of \$249,380.50. All cost of court spent or incurred in this cause are adjudged against Plaintiffs, jointly and severally. Baseline shall recover from Plaintiffs the following costs of the court: \$6,229.60 plus \$6.00. Baseline shall recover from Plaintiffs in the amount of TWO HUNDRED FIFTY-THREE THOUSAND, ONE HUNDRED ELEVEN AND 67/100 (\$253,111.67) Dollars.

By virtue of a Writ of Execution issued February 12, 2019 in cause number D-1-GN-16-005498 of Travis County, Texas styled LAMAR GATEWAY BACELINE HOLDINGS, LLC VERSUS LES BERGQUIST AND AUSTIN MAC REPAIR, LLC, ON A JUDGMENT RENDERED AGAINST LES BERGQUIST AND AUSTIN MAC REPAIR, LLC, Lot 2A and Lot 3A of AMENDED PLAT OF PORTIONS OF LOTS 19-24 & 35-40, BLOCK D, NORTH GATE ADDITION, a subdivision in Travis County, Texas, according to the map or plat recorded under Document Number 200900098 in the Official Public Records of Travis County, Texas.

And Whereas, on FEBRUARY 27, 2019, Notice of Sale of Real Property was issued out of Travis County Constable 5.

And, Whereas, on MARCH 25, 2019, a Supersedeas Bond in the sum of \$17,879.00 Dollars superseding said Judgment as provided by law was approved and filed.

Now, therefore, this is to command you, TRAVIS COUNTY CONSTABLE 5, desist from further proceedings under and by virtue of said Writ of Execution, and that you return the same forthwith.

Witness, VELVA L. PRICE, Clerk of the District Court of Travis County, Texas.
Issued and given under my hand and seal of said Court at office in the City of Austin, March 27, 2019.

 
 Velva L. Price
 Travis County District Clerk
 Travis County Courthouse
 1000 Guadalupe, P.O. Box 678003 (78757)
 Austin, TX 78701

PREPARED BY: DANIEL SMITH

108

Dormant Judgments

CPRC Ch. 34

109

No Execution on Dormant Judgment – CPRC Sec. 34.001

- If a writ of execution is not issued within 10 years after the rendition of a judgment of a court of record or a justice court, the judgment is dormant, and execution may not be issued on the judgment unless it is revived.
- If a writ of execution is issued within 10 years after rendition of a judgment but a second writ is not issued within 10 years after issuance of the first writ, the judgment becomes dormant.

110

Exception – Family Code Sec. 157.005

- Judgment for child support obligation may be enforced if a motion requesting a money judgment is filed not later than the 10th anniversary after the date:
 - (1) the child becomes an adult; or
 - (2) on which the child support obligation terminates under the child support order or by operation of law

111

Williams v. Short (730 S.W.2d 98 (1987)) – When is the Judgment Renewed?

- Appeals court affirmed the 1908 decision in Bourn v. Robinson (107 S.W. 873, 875).
- The term "issue" is something more than mere act of the clerk preparing and attesting the writ; the plaintiff must show that the writ was actually placed in the hands of a proper officer for enforcement.

112

Foreign Judgments

CPRC Ch. 35

113

Foreign Judgment

- "Foreign judgment" means a judgment, decree, or order of a court of the United States or of any other court that is entitled to full faith and credit in this state.
- Any court of competent jurisdiction shall certify the foreign judgment and may issue a writ on said judgment, following notice being given to the judgment debtor of the filing.

114

Domestication of Judgment – CPRC Sec. 35.003

- The clerk shall treat the foreign judgment in the same manner as a judgment of the court in which the foreign judgment is filed.
- A filed foreign judgment has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, staying, enforcing, or satisfying a judgment as a judgment of the court in which it is filed.

115

Writ on Foreign Judgment Example

Writ of Execution

C-1-CV-23-000128

THE STATE OF TEXAS
COUNTY OF TRAVIS

FUNDATION GROUP, LLC, Plaintiff vs. PRECISION MACHINED COMPONENTS, INC., Defendant

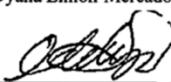
TO ANY SHERIFF OR ANY CONSTABLE WITHIN THE STATE OF TEXAS:

Whereas, FUNDATION GROUP, LLC Plaintiff on 01/06/2023 in County Court at Law #2 of Travis County, Texas, recovered foreign Judgment against PRECISION MACHINED COMPONENTS, INC., and HOWARD A. MOORE, Defendants, whose last known address is 608 E. Austin Ave., Round Rock, TX 78738, for the sum of \$25,133.99, plus post-judgment interest on said indebtedness from 04/08/2022, at the rate of 6% per annum until date of entry of this judgment; plus \$1,586.00, for attorney's fees, AND all costs of court.
AND WHEREAS said judgment is entitled to the following credits: NONE

THEREFORE you are commanded to proceed without delay to levy upon property of said Defendants found in your county not exempt from execution and sell same according to law in satisfaction of said judgment, including the costs of executing this writ, less the credits hereinabove set out.

HEREIN FAIL NOT, but make due return of this execution to said County Clerk on or before 90 days from the date hereof, with your return thereon endorsed showing how you have executed the same.

Issued on this the 28th day of February, 2023, by Dyana Limon-Mercado, County Clerk, Travis County, Texas.

By  , DEPUTY 

116

Last Known Address on Prior Example

C-1-CV-23-000128

Dyana Limon-Mercado
Travis County Clerk
C-1-CV-23-000128
Jazmonique Williams

CAUSE NO. _____

FUNDATION GROUP, LLC, PLAINTIFF, vs. PRECISION MACHINED COMPONENTS, INC. AND HOWARD A. MOORE, DEFENDANTS.	IN THE COUNTY COURT AT LAW NO. _____ TRAVIS COUNTY, TEXAS
---	---

AFFIDAVIT

STATE OF Maryland \$
 COUNTY OF Maryland \$

BEFORE ME, the undersigned notary, on this day personally appeared Thomas Friedrich, a person whose identity is known to me. After I administered an oath to the affiant, upon the affiant's oath the affiant said:

"My name is Thomas Friedrich. I am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

"Plaintiff and Judgment Creditor, FUNDATION GROUP, LLC, owns a judgment against Defendants and Judgment Debtors, PRECISION MACHINED COMPONENTS, INC. AND HOWARD A. MOORE.

"The last known address of the plaintiff and judgment creditor, FUNDATION GROUP, LLC, is in care of its attorneys, Barnett & Garcia, PLLC, 3821 Juniper Trace, Suite 108, Austin, Texas 78738.

"FUNDATION GROUP, LLC has retained as counsel Ian A. McCarthy, State Bar No. 24078960, of Barnett & Garcia, PLLC, located at 3821 Juniper Trace, Suite 108, Austin, Texas 78738.

"The last known address of Defendants and Judgment Debtors, PRECISION MACHINED COMPONENTS, INC. AND HOWARD A. MOORE is 608 E. Austin Ave, Round Rock, TX 78664."

Thomas Friedrich
 Attest
 Sworn to and subscribed before me on June 24, 2022.
Thomas Friedrich
 Notary Public
 State of Texas
 My commission expires on: 10/09/2023



117

Death of a Party

118

Death of Judgment Creditor

CPRC Sec. 34.002(a)

- If a judgment creditor dies prior to the issuance of a writ and there was an administration of their estate, then a writ of execution on a judgment owed to that judgment creditor should be issued in the name of the judgment creditor's legal representative and any other judgment creditors.
- Affidavit of death attached.
- Certificate of appointment of legal rep. attached.

119

Death of Judgment Creditor (cont.)

CPRC Sec. 34.002(c)

- If there is no administration of the judgment creditor's estate, then the writ of execution should be issued in the name of the judgment creditor and any money collected under that execution will be paid into the registry of the court, and the court will order the money to be paid to the parties that are entitled to it.
- If the writ of execution was issued prior to the death of the judgment creditor, then the writ is simply levied and returned as if that person were living.

120

Death of Judgment Debtor CPRC Sec. 34.003

- A judgment debtor's death after the issuance of a writ of execution will stay the execution. Any lien already acquired by a levy on the writ of execution must be recognized and enforced by the county court or probate court in the payment of the deceased's debts.
- Executing officer should notify the court of issuance and provide any supporting evidence.

121

Constable Sale Issues

122

Persons Not Eligible to Purchase CPRC Sec. 34.048

- “If an officer or his deputy conducting an execution sale directly or indirectly purchases the property, the sale is void”
- Constable or Sheriff & their deputies executing a sale may not purchase the property.
- A Sheriff or Constables may not indirectly purchase the property or use a “straw purchaser” to buy property.

123

Purchase by Judgment Creditor or Debtor - Needham v. Cooney, 173 S.W. 981

- Both the Judgment Debtor and the Judgment Creditor may purchase the property at a sale if they are eligible bidders.
- Should the Judgment Creditor purchase the property the officer conducting the sale will only need to collect cost.
- The Creditors purchase should be credited to Judgment.

124

Successful Bidder; Failure to Comply TRCP 652, 653

- If any person shall bid off property at any sale made by virtue of an execution, and shall fail to comply with the terms of the sale, he shall be liable to pay the plaintiff in execution twenty per cent on the value of the property thus bid off, besides costs, to be recovered on motion, five days notice of such motion being given to such purchaser; and should the property on a second sale bring less than on the former, he shall be liable to pay to the defendant in execution all loss which he sustains thereby, to be recovered on motion as above provided.

125

Resale of Property TRCP 653

- When the terms of the sale shall not be complied with by the bidder the levying officer shall proceed to sell the same property again on the same day, if there be sufficient time; but if not, he shall readvertise and sell the same as in the first instance.

126

Officer Liability Issues

127

Liability – Execution of Writs

- General Rule: Officer is not liable for damages if officer acted in good faith to execute the writ by law. CPRC Sec. 7.003

128

Unfinished Business

LGC 86.025, CPRC 34.062

- If a constable vacates the office for any reason, all unfinished business shall be transferred to the succeeding constable and completed in the same manner as if the successor had begun the business.
- Remember, process is sent to the “office” not the individual

129

Improper Endorsement of Writ

CPRC Sec. 34.063

- Failure to number writs if more than one is received for the same judgment debtor.
- Failure to endorse writs
- Can result in officers & sureties liable for actual damages

RECEIVED
2023 AUG 21 PM 12:25
CONSTABLE PCT. 1
WILLIAMSON COUNTY, TX

RECEIVED
August 8, 2023 9:12 AM
Constable 1
Williamson County, TX, USA

130

Officer Liable for Actual Damages

- If the officer receives more than one execution on the same day against the same person, he shall number them as received. TRCP 636.
- Failure to do so results in liability of the officer for actual damages. CPRC § 34.063

131

Duty of Officer to Levy

- When an officer receives a writ of execution, he is required to "proceed without delay" to levy on the defendant's nonexempt property found in his county, unless directed otherwise by the plaintiff or his agent or attorney. TRCP 637.
- An officer receiving a writ of execution may return the writ after the first levy, or attempted levy, if the judgment creditor cannot designate any more executable property currently owned by the judgment debtor at the time of the first levy or first attempted levy. CPRC § 34.072.

132

During a writ, you levied on two non-exempt pieces of property, a boat and a jet ski, neither of the items sold at auction. The property is still being held at the tow lot.

How do you proceed?

133

Duty to Protect Seized Property Civ Prac. & Rem Code 34.061

- Officer has a duty to keep property secured
- Responsible for neglect and loss
- Injured party has the burden to prove actual damages and value of loss
- Consider this when deciding how to levy

134

Case Example: *Smith v. Harvey*, 104 S.W.2d 938.

- San Patricio County Sheriff levied on 34,000 bushels of feed
- Sheriff seized the property by instructing the defendant any removal of the property would be illegal and result in action taken against him. On several occasions he prevented the removal of the property.
- Sheriff did not take the property into his actual possession.
- The levy was effective, It was sufficient for the Sheriff to point out the property, and “assume dominion over it” and forbid its removal

135

Smith v. Harvey (cont.)

- The sequestered property was of “great bulk, weight and immobility” which was so cumbersome that it could not be moved without great expense and effort.
- The levy was effective, It was sufficient for the Sheriff to point out the property, and “assume dominion over it” and forbid its removal
- A levy may occur even when the officer does not take actual possession of the subject property

136

Case Example: *Nueces County Sheriff James T. Hickey v. Couchman*, 797 S.W.2d 103 Tex. App.-Corpus Christi 1990

- After requesting the debtor to designate property subject to execution, the debtor stated he had filed a personal bankruptcy.
- The attorney representing the judgement debtor told the deputy his client was “in the process” of filing the bankruptcy.
- “over ninety days from the date of the attempted execution and the debtor's sale of his assets, he filed a Chapter 7 bankruptcy petition, it was a no asset case. All of debtor's debts were discharged and appellee received no distribution from the proceedings”

137

Hickey v. Couchman (cont.)

- “When the deputy learned that bankruptcy had not been filed and the debtor was hiding and selling his assets, he had a duty to execute immediately. Rule 637 (Vernon 1989). We hold that where a sheriff is aware of the debtor's non-exempt assets and is able to seize them but does not, he willfully and intentionally violates Sec. 34.065. [Civ Prac. & Rem. Code]

138

Limitation on your Duty (1)

CPRC Sec. 34.071

- An officer receiving a writ of execution does not have a duty to:
 - Search for property belonging to the judgment debtor
 - Determine whether the property belongs to a judgment debtor
 - (continued on next slide)

139

Limitation on your Duty (2)

CPRC Sec. 34.071

- Determine whether the property belonging to the judgment debtor is exempt property not subject to levy
- Determine the priority of liens asserted against property subject to execution
- Make multiple levies for cash or multiple levies at the same location.

140

Accessing Property -

Hillman V. Edwards, 28 Tex. Civ. App. 308 (Tex. Civ. App. 1902) 66 S.W. 788

- Entry Into Dwelling by Force.
- “Although an officer has in his hands an order of court for the sale of specific property upon which a lien has been foreclosed, he has not the right to make a forcible entry into the dwelling of the defendant for the purpose of seizing the property...”

141

Re-Entry By Force -

Hillman V. Edwards, 28 Tex. Civ. App. 308 (Tex. Civ. App. 1902) 66 S.W. 788

- Re-Entry by Force.
- “Where an officer has affected a lawful entry into a dwelling house and thereby acquired the right to use all necessary force in making the levy, and he voluntarily leaves without doing so, he is not entitled to re-enter the house by force.”

142

Access to Private Spaces in a Business

- Discussion:
- Does a refusal to permit a constable to enter the restricted area of a business in order to serve civil process constitutes an offense under section 38.16 (preventing the execution of civil process) of the Penal Code?

143

Texas Attorney General Opinion GA-0113

- A person does not “intentionally or knowingly by words or physical action” prevent “the execution of any process in a civil cause,” TEX. PEN. CODE ANN. § 38.16(a) (Vernon 2003) by refusing to permit a process server (including Constables) to enter an area of his workplace that his employer has designated as “private,”
- Based on Supreme Court Case, *Gateway 2000, Inc. v. Limoges*

144

An attorney for the judgment creditor lists two pieces of equipment that he states are non-exempt and directs you to levy on them to satisfy the judgment.

What do you do?

145

Get it in Writing! Example

LEVY AUTHORIZATION

On this the _____ day of _____, 2023, I, _____ Agent for _____ do hereby direct Deputy Constable, Patrick Youngren of the Williamson County Constable Precinct 1, Constable's Office to levy on the items that are designated by me prior to seizure and listed below. I also understand that as the Plaintiff I am responsible for all fees associated with pickup and storage of the personal property items levied on and/or advertising fees associated with Notice of Sale postings for real property, by the Constable's Office or 3rd Party. This is being directed in an effort to satisfy the judgment for the Plaintiff(s) United Rentals (North America) INC. Rendered in this case, Cause No. 21-1383-CC4.

UNITED RENTALS (NORTH AMERICA), INC. vs INTEGRATED ENVIRONMENT, LLC D/B/A
INTEGRATED ENVIRONMENTAL AND JIMMY JONES

Plaintiff / Attorney / Agent, Signature

Date

Please contact our office at (512) 244-8650 if you have any questions.

146

Judgment Debtor Protections

147

Judgment Debtor Protections

- Bankruptcy
- Exemption claim (Rule 679b)
- Temporary Restraining Order
- Writ of Supersedeas
- Stay of Execution (Justice Court)
- Wrongful levy

148

Wrongful Levy

CPRC Sec. 340.075

- Whenever a Distress Warrant, Writ of Execution, Attachment, or other like writ is levied upon personal property, and the property or any part of the property, is claimed by and claimant who is not party to the writ, the exclusive remedy against a Sheriff or Constable for wrongful levy is by trial of the right of property.

149

Exempt Property

150

Homestead Exemption Property Code Sec. 41.002

- Shall not consist of more than 10 acres urban for a single individual or a family.
- Shall not consist of more than 100 rural acres for a single individual and 200 for a family.
- May be in one or more contiguous or separate lots.

151

Urban or Rural Homestead CPRC Sec. 41.002(c)

- A homestead is considered urban if at the time the designation is made, the property is:
 - Located within the city limits of municipality or its ETJ or a platted subdivision and serviced by police protection, paid or volunteer fire protection and at least three of the following services provided by the municipality:
 - Electric
 - Natural gas
 - Sewer
 - Storm sewer and
 - Water

152

Temporary Renting of Homestead CPRC Sec. 41.003

- Temporary renting of a homestead does not change its homestead character if the homestead claimant has not acquired another homestead.

153

Sale of Excess CPRC Sec. 41.003

- An officer holding an execution sale of property of a judgment debtor whose homestead has been designated under this chapter may sell the excess of the judgment debtor's interest in land not included in the homestead.

154

Personal Property Exemptions Property Code Sec. 42.001

- The property is in the categories below and if provided for a family has an aggregate fair market value of not more than \$100,000
 - \$50,000 for a single adult.
- Current wages (exemption for child support)
- Professionally prescribed health aids including those of a dependent
- Alimony, support
- Religious bible or book

155

Additional Exemptions Property Code Sec. 42.002

- The following personal property is exempt:
 - Home furnishings, including family heirlooms.
 - Provisions for consumption
 - Farming/ranching vehicles & equipment
 - Tools, equipment, books and apparatus including boats/vehicles used in a trade/ profession

156

Additional Exemptions (continued)

Property Code Sec. 42.002

- Wearing apparel
- Jewelry not to exceed 25% of the aggregate limitations
- Athletic/ sorting equipment including bicycles
- A two-wheeled, three-wheeled, or four-wheeled vehicle for each member of a family or a single adult who holds a driver license or who does not hold a drivers license but relies on another person to operate the vehicle for their benefit.

157

Exemptions - Animals

Property Code Sec. 42.002

- The following animals and forage on hand:
 - 2 horses, 2 mules or donkeys and a saddle, blanket, and bridle for each
 - 12 head of cattle
 - 60 head of other type of livestock
 - 120 fowl
 - Household pets.

158

Additional Exemption for Savings Plans Property Code Sec. 42.0021

- Qualified savings plans are exempt, this includes:
 - Retirement plans & Accounts
 - Pensions,
 - Annuities
 - Deferred Comp.
 - IRA's
 - HSA's
 - ESA's / Tuition savings plans
 - Savings trust accounts

159

Exempt Property – Corporations & Entities

- Corporations do not have any exempt property.
- LLC, Inc, LLP etc. VS DBA, assumed names

160

In accordance with Rule 637 you call on the judgment debtor to point out property to levy on to satisfy the judgment. The debtor points out that she owns single car, and states the car is free and clear from any liens.

What do you do?

161

Exempt Property

Notices & Claims

162

Notice of Exemption Rights Gov't Code Sec. 22.0042

- 87th Legislature Directed the Supreme Court to:
 - Establish a simple and expedited procedure for a judgment debtor to assert exemption to the seizure of property
 - Create a notice in both English and Spanish listing exemptions

163

Notice of Exemption Rights (cont.) Gov't Code Sec. 22.0042

- Include instruction for use of form
- Requires courts to promptly set a hearing on the assertions and stay a proceeding for a reasonable amount of time
- Provide legal aid contact
- Effective May 1, 2022

164

Required Documents TCRP 679b

- “When a post-judgment turnover order, order appointing a receiver under section 31.002 CPRC, writ of garnishment, writ of execution, or other post-judgment order is issued, the receiver or judgment creditor must serve the judgment debtor with the Seizure Exemption Notice, the Instructions for Seizure Exemption Claim Form, and the Seizure Exemption Claim Form adopted by the Supreme Court. Before service, the receiver or judgment creditor must list in the Seizure Exemption Claim Form the “Interested Persons” to Notify.”

165

Service of Documents TCRP 679b

- Service Timing. The receiver or judgment creditor must serve the documents in within three business days after the receiver or judgment creditor has notice that the property has been seized
- Service Method. The documents must be served as provided in Rule 21a or Rule 501.4

166

Suspension Period

Tx. R. Civ. P. 679b

- A receiver or officer must not sell the judgment debtors personal property or distribute proceeds to the judgment creditor within 14 days after service of the documents or within 17 days if served by mail.
- Nothing in this rule prohibits a receiver or officer from noticing the sale of the judgment debtor's property during the suspension period if the sale date is to occur after the expiration of the period.

167

Seizure Exemption Notice

Example

CAUSE NO. _____

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

SEIZURE EXEMPTION NOTICE

You are receiving this notice because your money or property has been frozen or "seized" (taken) to pay a debt judgment against you. **IF YOU ARE AN INDIVIDUAL (NOT A COMPANY), YOU MAY BE ABLE TO GET YOUR MONEY OR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.** Certain laws, called "exemptions," protect some kinds of money and property from being taken. The following is a list of the types of money and property that may be protected:

Current wages for personal services
Social Security Administration benefits, including Social Security Retirement, SSI, and SSDI
Veterans Administration benefits
Railroad Retirement Board benefits
Office of Personnel Management retirement benefits
FEMA disaster benefits
Workers' compensation benefits
Unemployment benefits

168

<input type="checkbox"/> Office of Personnel Management retirement benefits
<input type="checkbox"/> FEMA disaster benefits
<input type="checkbox"/> Workers' compensation benefits
<input type="checkbox"/> Unemployment benefits
<input type="checkbox"/> Child support, alimony, and spousal support
<input type="checkbox"/> Pension and retirement benefits
<input type="checkbox"/> Proceeds from the sale of a homestead
<input type="checkbox"/> Tax-deferred retirement accounts, like 401(k) and IRA accounts
<input type="checkbox"/> Professionally prescribed health aids
<input type="checkbox"/> Education savings accounts
<input type="checkbox"/> Health savings accounts
<input type="checkbox"/> Temporary Assistance for Needy Families ("TANF") funds
<input type="checkbox"/> Life insurance and annuity benefits
<input type="checkbox"/> Religious bible or other sacred religious book
<input type="checkbox"/> Home furnishings, including family heirlooms Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Food and similar items for consumption Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Farming or ranching vehicles and implements Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Tools and equipment used for a job Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Clothes Value \$ <i>(Write value.)</i>
<input type="checkbox"/> Jewelry Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Firearms Number: <i>(Write number.)</i> ; Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Athletic and sporting equipment Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Motor vehicles Number: <i>(Write number.)</i> ; Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Horses, mules, or donkeys Number: <i>(Write number.)</i> ; Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Cattle Number: <i>(Write number.)</i> ; Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Other livestock Number: <i>(Write number.)</i> ; Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Fowl Number: <i>(Write number.)</i> ; Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Household pets Value: \$ <i>(Write value.)</i>
<input type="checkbox"/> Unpaid commissions for personal services Value: \$ <i>(Write value.)</i>

I ask that the Court set a hearing on my exemption claim(s) and order that my money or property be returned to me.

(Check one.)

<input type="checkbox"/> I would prefer to receive communications from the court, including notice of my hearing, by email to the email address listed above.
<input type="checkbox"/> I would prefer to receive communications from the court, including notice of my hearing, by mail to the mailing address listed above.

4. Declaration/Affidavit: (Check and fill out ONLY ONE box. If you fill out the Declaration, you will not need to sign the form in front of a notary public. If you fill out the Notary box, you need to do that in front of a notary public.)

<input type="checkbox"/> Declaration: I declare under penalty of perjury that the foregoing is true and correct.			
My name is _____ My date of birth is ____/____/____. My address is _____ Street _____ City _____ State _____ Zip Code _____ Country _____			
_____ Your Signature	_____ Today's Date	_____ County	_____ State
<input type="checkbox"/> Notary: I declare under penalty of perjury that the foregoing is true and correct.			
Your Printed Name _____		Your Signature _____	
Notary to fill in: Sworn to and subscribed to me this _____ day of _____, 20 _____. _____ (Notary)			

169

Claiming an Exemption TRCP 679b

- Burden of proof on the Judgment Debtor – must prove the exemption claim and the values of the exempt property.
- The court must determine the judgment debtors claim within 10 days after filing
- If the court determines the property is exempt, the court must order its release within 3 days

170

Replevy

171

Debtor Right to Replevy TRCP 644 & 645

- Any property seized under an execution can be returned to a judgment debtor if that judgment debtor pays a bond.
- After the judgment debtor has replevied the property in the above manner, the judgment debtor can sell or dispose of the property if they pay the officer the stipulated value.

172

Forfeiture of Replevy Bond TRCP 646

- The bond will be forfeited if the judgment debtor fails to deliver the property to the officer as directed by the bond and also fails to pay the value to the officer. The officer should then endorse the bond as forfeited and return it to the clerk or the court or the justice of the peace where the execution was issued.

173

Tricky Property Categories

174