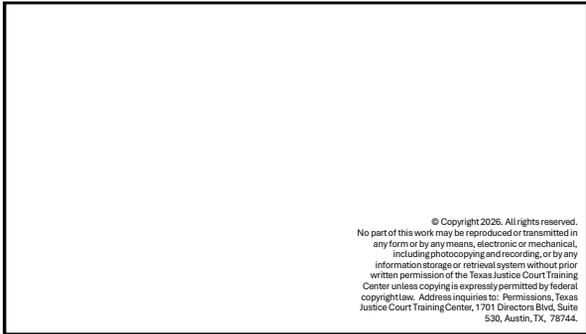
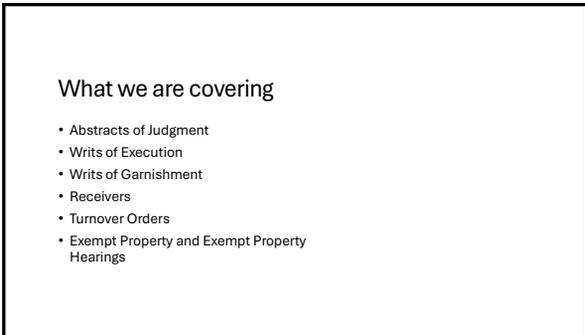


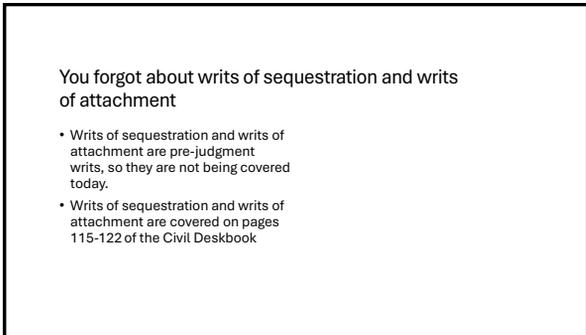
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2



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4



5



6

Where to find the forms? Step 3



7

Where to find the forms? Step 4



8

Where to find the forms? Step 5



9

Where to find the forms? Step 5



10

- Judgment creditor: Person who is owed money after a lawsuit, usually the plaintiff. A judgment creditor is also a garnishor.
- Judgment debtor: Person who owes the money after a lawsuit, usually the defendant.
- Garnishee: Someone like a bank who may hold property

11

Abstract of Judgment: Property Code sections 52.001-.003

What is an abstract of judgment?

- A document placed in the county records that records facts about the judgment

What does an abstract do?

- Creates a lien on real property located in the county (e.g. second home, investment property)
- Clouds title to ensure that judgment creditor is paid from the profits of the sale of the land.

12

Timing and Costs

When can a party get an abstract of judgment?

- Can be requested by the judgment creditor as soon as the judgment is final.
- On the one hand, there is a risk that the abstract will have no effect if the judgment is appealed. On the other hand, it prevents the judgment creditor from selling the property ASAP.

There is a \$5 fee per abstract

- The party may need to file abstracts in multiple counties.

13

Where can an abstract be filed?

In any county in which the judgment creditor believes the judgment debtor owns non-exempt property.

14

How an abstract is prepared

- It can be prepared by the court clerk.
- The clerk uses information from the judgment to fill it out.
- The clerk does not research additional information.
- Attorneys can create their own abstracts with the county clerk without involvement of your court.

15

What is included in an abstract of judgment?

- The names of the plaintiff and defendant
- The defendant's date of birth
- The last three digits of the defendant's driver's license and social security number.
- The date and amount of the judgment
- The balance due on the judgment
- The interest rate specified in the judgment

16

Time for a Poll

17

Does the filing of an abstract of judgment extend the life of the judgment?

18

Writs of Execution (Rule 621)

- What is a writ of execution?
 - An order from the court to a constable or sheriff to seize ("levy on") the judgment debtor's non-exempt property and sell it to pay off the judgment.
 - Certain items of property are "exempt," meaning they cannot be seized and sold
 - Civil Deskbook, page 164
 - Exempt Property Benchcard.

19

How does a writ of execution work?

- Judgment creditor files an application for a writ of execution – normally must be at least 30 days after judgment
- There is a \$5 per page writ fee.
- The writ is returnable to the court in 30, 60, 90 days at the option of the judgment creditor.
- Can only be issued from a court with jurisdiction over the judgment.

20

What must be included in the writ?

- Description of the judgment.
- Requirement that the officer execute the writ and collect the costs adjudged against the defendant and the costs of execution.
- The rendering court and the time when the judgment was rendered.
- Names of the parties
- A copy of the bill of costs taxed against the defendant.
- Signed by the judge.

21

When may a writ of execution be issued before the 30th day?

When the plaintiff files an affidavit stating that the defendant is about to remove his personal property subject to execution out of the county or is about to transfer or hide his personal property for the purpose of defrauding his creditors.

-- Rule 628.

22

Then what?

- If the court finds that the requirements are met, the court signs the writ
- The clerk will attach a copy of the bill of costs (including all court costs the judgment creditor has paid).
- Then it goes to the constable's office for execution.

23

What if the writ expires before the property can be sold?

If, after the levy, there is not enough time to sell the seized property before the writ expires, the sheriff or constable must return the writ to the court and the plaintiff must secure a writ of **venditioni exponas**, which authorizes the sheriff or constable to sell the seized property after the writ of execution expires.

24

Execution docket (Rule 507.3)

The clerk must enter in the docket:

- Time when the writ of execution was issued.
- To whom it was directed and delivered.
- The amount of the debt, damages and costs.
- When the writ is returned, the clerk must note the return in the docket and show the manner in which it was executed.

25

What about an appeal?

A writ of execution may not be issued once an appeal has been perfected.

A justice court judgment is not set aside, and a writ of execution may be issued, if:

- the case is one which cannot be appealed; or
- the county court dismisses the appeal because it has not obtained jurisdiction of the case.

26

Time for a Poll

27

A party properly files an appeal bond with the justice court but fails to pay the filing fee in the county court. Can the justice court issue a writ of execution?

28

Stay of execution

- A defendant might have a judgment rendered against him that he is currently unable to pay but believes he will be able to pay within three months.
- He can request a stay of execution of the judgment.

29

Application for a stay of execution

Judgment debtor has to file an affidavit stating:

- He does not have the money to pay the judgment; and
- Enforcement of the judgment prior to three months would be a hardship on him and cause a loss of property which would not be caused if the execution were stayed for three months.

The judgment debtor and at least one surety approved by the judge must acknowledge that they are bound to the judgment creditor for the full amount of the judgment with interest and costs.

Rule 635

30

Timing for Stay

- Within ten days after signing a judgment in justice court, the judge may grant a stay of execution for three months from the date of the judgment. Rule 635
- If signed, the judgment creditor cannot obtain a writ of execution, a writ of garnishment, a turnover order, ect., until the three months have passed.

31

What is a writ of garnishment?

It's a way to seize assets held by a third party (the garnishee) but that belong to or are owed to the judgment debtor

For example:

- A judgment debtor has a bank account
- The bank holds the money that actually belongs to the judgment debtor.

A writ of garnishment is how the plaintiff (the garnishor) can require the bank (the garnishee) to turn over the judgment debtor's money to satisfy the judgment.

32

Who May Issue a Writ of Garnishment?

- Only the court that issued the judgment that is being collected may issue the writ of garnishment.
- The clerk of a justice court may issue a writ of garnishment returnable to the court.

33

Pre-judgment garnishment

- Side note: there is a separate procedure for a pre-judgment writ of garnishment, which rarely comes up
- If it does, please see the Civil Deskbook, at page 138.

34

What property may be seized?

- Only non-exempt personal property may be seized by a writ of garnishment.
- Judgment creditors may not seize real property (land) this way
- How does a judgment creditor know what non-exempt personal property the judgment creditor has? Post-judgment discovery

35

Some property is exempt from garnishment, such as:

- Current wages
- Worker's compensation benefits
- Government assistance funds

New rules allow a judgment debtor to assert that property sought in a garnishment proceeding is exempt (we'll get to that later).

Exempt property in garnishment proceedings

36

Step 1: application for the writ

The plaintiff must file an application for a writ of garnishment stating that:

- They have a final judgment against the judgment debtor; and
- The judgment debtor does not have enough property in Texas to satisfy the judgment with a writ of execution.

37

Filing fees

- \$5 writ fee for preparing and issuing the writ.
- Most courts charge the standard civil filing fee of \$54 since the rule says the case is docketed as a separate action. TJCTC agrees with this. It's okay not to charge it but be consistent and check with your county auditor.

38

Here is the form

- <https://www.tjctc.org/tjctc-resources/forms.html> > Civil Procedure Forms > Enforcement of Civil Judgments > Writ of Garnishment -- Application

[Turnover Order - Updated May 2022](#)
[Writ of Attachment - Application - Updated 4/2021](#)
[Writ of Attachment - Updated April 2021](#)
[Writ of Execution - Application - Updated April 2021](#)
[Writ of Execution - Updated April 2021](#)
[Writ of Execution - Request for Stay of Execution - Updated April 2021](#)
[Writ of Execution - Stay of Execution - Updated April 2021](#)
[Writ of Garnishment - Application - Updated April 2021](#)
[Writ of Garnishment and Notice to Defendant - Updated April 2021](#)

39

Step 2: Issuance of the writ

- A garnishment case is filed and docketed as a separate proceeding against the garnishee.
- Once the requirements for issuance of the writ are met, the clerk or judge must docket the case in the name of the garnishor as plaintiff and the garnishee as defendant; and

40

Step 2: issuance of the writ (cont.)

Issue a writ directing the garnishee to appear and state under oath what, if anything, it is indebted to the judgment debtor for and what property, if any, of the judgment debtor it has in its possession, and to hold any such property until further order of the court.

41

Step 3: Service of the writ to the garnishee

A writ of garnishment must be served by a Constable or Sheriff (including a deputy).

- A private process server may not serve it.

The clerk gives the writ to a Constable or Sheriff or to the plaintiff for them to deliver to a Constable or Sheriff.

- The plaintiff will have to pay the service fee.

42

Step 3: service on garnishee (cont.)

- Service may be on a Sunday.
- If the garnishee is a financial institution, then the writ must be served on the institution's registered agent for service of process if they have one.
- Financial Code section 59.008; Civil Practice & Remedies Code section 63.008

43

Step 4: Service of notice on judgment debtor

Judgment debtor entitled to notice of the application, any accompanying affidavits, and orders of the court.

Judgment debtor also to be informed that the writ has been served and they have a right to move to modify or dissolve the writ, a right to regain possession of the property by filing a replevy bond, as well as the right to file a personal property claim form and request an exempt property hearing

44

Service of notice on judgment debtor (cont.)

Notice may be served as you would a citation or any other manner allowed by Rule 501.4 (e.g., in person, mail, fax, email or other manner directed by the court).

Notice is supposed to be "as soon as practicable." Why is this service after service on the garnishee?

45

Step 3: Service of the Writ and Notice to the Judgment Debtor - Form

- A form for this is located here: <https://www.tjctc.org/tjctc-resources/forms.html> > Civil Procedure Forms > Enforcement of Civil Judgments > Writ of Garnishment and Notice to Defendant of Writ

46

Time for a Poll

47

True or False: A writ of garnishment may be used to seize any property of the judgment debtor held by the garnishee, including real property and current wages.

48

The notice to the judgment debtor should be sent:

49

Garnishee's answer

- The garnishee's answer must be filed by 10 am on the Monday following the expiration of ten days after service of the writ on the garnishee.

50

Ways a garnishee can respond

- Garnishee can fail to answer.
- Garnishee can admit they hold assets of the judgment debtor, which is undisputed.
- Garnishee can deny they hold any assets of the judgment debtor, which is undisputed.
- Garnishee's answer can be disputed.

51

If the garnishee fails to answer ...

... and is not a bank, the court should enter a default judgment against the garnishee for the full amount of the judgment. This judgment is solely against the garnishee's assets, not the assets of the judgment debtor.

52

If the garnishee fails to answer but IS a financial institution ...

... then the default judgment is only as to the existence of liability. The plaintiff must prove "the amount of actual damages proximately caused to the [plaintiff] by the financial institution's default."

53

The court may award the garnishor:

Actual damages proximately caused to the garnishor by the financial institution's default; and

For good cause shown, reasonable attorney's fees in establishing actual damages.

54

Form when garnishee fails to answer

- A form for this is located here:
<https://www.tjctc.org/tjctc-resources/forms.html> > Civil Procedure Forms > Enforcement of Civil Judgments > Writ of Garnishment – Default Judgment Against Garnishee

[Writ of Garnishment - Application - Updated April 2021](#)

[Writ of Garnishment and Notice to Defendant of Writ - Updated May 2022](#)

[Writ of Garnishment - Default Judgment Against Garnishee - Updated March 2023](#)

[Writ of Garnishment - Judgment Discharging Garnishee - Updated March 2023](#)

[Writ of Garnishment - Judgment - Updated March 2023](#)

[Writ of Garnishment - Notice to Garnishee of Trial - Updated April 2021](#)

If garnishee holds assets of judgment debtor

If the garnishee admits it is indebted to or holds assets of the judgment debtor, then the court must render judgment for the plaintiff against the garnishee.

- Subject to an exempt property claim (discussed below)!

The judgment should be for the amount the garnishee holds for the judgment debtor up to the amount currently due on the original judgment (including costs and interest).

55

56

But the garnishee gets paid.

If the garnishee is discharged based on its answer, the costs are taxed against the judgment creditor.

For example,

- Mark has a judgment against Rebecca for \$3k, including costs and interest. In garnishment action, First Bank answers with a statement that it holds \$8k in Rebecca's account, and that it has spent \$400 in answering this suit. None of this money is exempt.
- In that case, Mark gets a judgment for \$3k, First Bank is paid \$400, and Rebecca gets to keep \$4,600.

57

58

Time for a Poll

Mark has a judgment against Rebecca for \$3k. First Bank files an answer in garnishment case indicating Rebecca has \$600 in its account and indicates it has suffered \$600 in costs responding to this action. All of this is uncontested. Rebecca does not assert that the money is exempt. Assume no additional costs. How much does Mark get in the garnishment judgment?

- A. \$3k
- B. \$2,400
- C. \$0.00

59

60

The form if the garnishee holds the judgment debtor's assets

- A form for this is located here:
<https://www.tjctc.org/tjctc-resources/forms.html> > Civil Procedure Forms > Enforcement of Civil Judgments > Writ of Garnishment – Judgment

[Writ of Garnishment - Application - Updated April 2021](#)
[Writ of Garnishment and Notice to Defendant of Writ - Updated May 2022](#)
[Writ of Garnishment - Default Judgment Against Garnishee - Updated March 2023](#)
[Writ of Garnishment - Judgment Discharging Garnishee - Updated March 2023](#)
[Writ of Garnishment - Judgment - Updated March 2023](#)
[Writ of Garnishment - Notice to Garnishee of Trial - Updated April 2021](#)

61

If the garnishee denies it holds any assets and this is undisputed ..

If the garnishee files an answer denying that it has any of the judgment debtor's property and does not know of anyone else who holds any of their property (or if it does, it identifies that person), then the court must enter a judgment discharging the garnishee.

62

But the garnishee gets paid, part two.

If the garnishee is discharged based on its answer, the costs are taxed against the plaintiff.

63

The form if the garnishee does not hold the judgment debtor's assets

- A form for this is located here:
<https://www.tjctc.org/tjctc-resources/forms.html> > Civil Procedure Forms > Enforcement of Civil Judgments > Writ of Garnishment – Judgment Discharging Garnishee

[Writ of Garnishment - Application - Updated April 2021](#)
[Writ of Garnishment and Notice to Defendant of Writ - Updated May 2022](#)
[Writ of Garnishment - Default Judgment Against Garnishee - Updated March 2023](#)
[Writ of Garnishment - Judgment Discharging Garnishee - Updated March 2023](#)
[Writ of Garnishment - Judgment - Updated March 2023](#)
[Writ of Garnishment - Notice to Garnishee of Trial - Updated April 2021](#)

64

What if the garnishee's answer is controverted?

- Either the plaintiff or the judgment debtor may controvert the garnishee's answer.
- In that case, if the garnishee is a resident of the county where the case is pending, then the court will try the issues that are controverted.
- But if the garnishee is a resident of another county, then the issues that are controverted must be tried in a court in that county.
- If that happens, the court must transfer the case to that county.

65

We have a form for that too

- A form for this is located here:
<https://www.tjctc.org/tjctc-resources/forms.html> > Civil Procedure Forms > Enforcement of Civil Judgments > Writ of Garnishment – Notice to Garnishee of Trial

[Writ of Garnishment - Application - Updated April 2021](#)
[Writ of Garnishment and Notice to Defendant of Writ - Updated May 2022](#)
[Writ of Garnishment - Default Judgment Against Garnishee - Updated March 2023](#)
[Writ of Garnishment - Judgment Discharging Garnishee - Updated March 2023](#)
[Writ of Garnishment - Judgment - Updated March 2023](#)
[Writ of Garnishment - Notice to Garnishee of Trial - Updated April 2021](#)

66

What, the attorneys don't get paid?

Neither the judgment creditor nor the judgment debtor can recover attorney's fees when the answer is contested, regardless of who wins.

[We get paid. We always get paid. Our client just can't recover costs.]

67

Garnishee collecting fees in contested action

Garnishee may not collect if their answer is contested, and they lose. They are entitled to collect attorney's fees if their answer is contested, and they win.

68

How can a judgment debtor react?

- Exempt property claim
- Replevy
- Motion to Substitute Property
- Motion to Dissolve the Writ of Garnishment

69

If the judgment creditor files a Protected Property Claim Form

... the court must hold a hearing and the frozen or seized property may not be sold or transferred in the meantime.

70

Replevy or motion to substitute

- **Replevy:** This means the judgment debtor may recover their assets by posting a replevy bond payable to the plaintiff in the amount set by the court's order.
- **Motion to Substitute Property:** The judgment debtor may file a motion to substitute property worth enough to satisfy the garnishment order.

71

Another option: motion to dissolve or modify the writ

- **Motion to Dissolve or Modify the Writ:** The judgment debtor may move to dissolve or modify the writ. They must admit or deny each reason for issuing the writ, or explain why they cannot do so.
- The filing of the motion stays further proceedings. The court must hear the motion promptly (may be less than three days) after notice to the plaintiff.
- If the judgment debtor denies the grounds for issuance of the writ, the burden is on the plaintiff to prove those grounds.

72

Time for a Poll

73

Mark files a garnishment case against Heavenly Bank to collect on \$5k on a judgment against Thea. Heavenly Bank is busy and fails to file an answer to the writ of garnishment. The court should:

- A. Render judgment against Heavenly Bank for \$5k
- B. Render judgment against Heavenly Bank for actual damages caused to Mark for default

74

This time, Heavenly Bank files an answer stating Thea no longer has an account with the Bank and therefore it does not hold any of her assets and does not know where any of her assets could be located. No one responds. The court should:

- A. Enter judgment against judgment creditor for the garnishee's costs.
- B. Enter judgment against judgment debtor for the garnishee's costs.

75

Heavenly Bank files an answer stating Thea has an account with \$8k. Thea files a response disputing the Bank's answer, claiming that the account belongs solely to her husband and not to her. The court should:

- A. Try the controverted issues no matter what.
- B. Transfer the case if the bank resides in another county.

76

What is a receiver?

A receiver is a person appointed by the court who has the authority given to them by the court in the order appointing them as a receiver.

- This means the authority to take possession of the judgment debtor's non-exempt property, sell it and pay the proceeds to the judgment creditor to satisfy the judgment.

77

What does a receiver do?

A receiver basically serves the same function as a constable or sheriff but only has the powers granted to them by the court in the order appointing him.

Most debt collectors want the court to appoint a receiver rather than using a writ of execution or a writ of garnishment.

Why might that be the case?

78

Court's authority

- A law saying a court may "aid" a judgment creditor by:
- Appointing a receiver with authority to take possession of non-exempt property, sell it and pay the proceeds to the judgment creditor.

-- Civil Practice and Remedies Code § 31.002

79

Tex. Civ. Prac. & Rem. Code § 31.002(a)

A judgment creditor:

- is entitled to aid from a court of appropriate jurisdiction, including a justice court,
- through injunction or other means
- in order to reach property to obtain satisfaction on the judgment
- if the judgment debtor owns property . . . that is not exempt from attachment, execution, or seizure for the satisfaction of liabilities.

80

Tex. Civ. Prac. & Rem. Code § 31.002(b)

The court may:

- (1) order the judgment debtor to **turn over** nonexempt property that is in the debtor's possession . . . , together with all documents or records related to the property, to a designated sheriff or constable for execution; . . . **or**
- (3) **appoint a receiver** with the authority to take possession of the nonexempt property, sell it, and pay the proceeds to the judgment creditor to the extent required to satisfy the judgment.

81

Where must the application to appoint a receiver be filed?

- With the court that issued the judgment that is being enforced; or
- A court in which a foreign judgment has been domesticated.

82

Burden on judgment creditor

For the court to appoint a receiver the judgment creditor must prove that:

- The judgment debtor owns property; and
- That property is not exempt from attachment, execution or seizure and therefore may be used to satisfy the judgment.

83

How much evidence?

Cases hold that the court must have some evidence before it that establishes the "necessary conditions" for appointment of a receiver (on the previous slide).

- This is usually submitted by affidavit but could be done with testimony at a live hearing.

How much evidence is sufficient is within the court's discretion.

84

Is the court required to appoint a receiver?

If the judgment creditor cannot show that the judgment debtor has non-exempt property, then the court should not appoint a receiver.

- How strict the court wants to be in scrutinizing the judgment creditor's affidavit is up to the court.

For example, the court could ask the judgment creditor what evidence they have that the judgment debtor does have non-exempt property.

85

SCOTX has the receiver form order you are required to use

The form is available here:

<https://www.tjctc.org/tjctc-resources/forms.html> > Civil Procedure Forms > Enforcement of Civil Judgments > Receivership – Order Appointing Receiver

[Exempt Property Claim Form \(Supreme Court Form\)](#) - Added
[Exempt Property Claim Form - Instructions \(Supreme Court F](#)
[Notice of Protected Property Rights \(Bilingual: Supreme Cou](#)
[Post-Judgment Discovery Order Including Sanctions](#) - Update
[Receivership or Turnover Order - Application](#) - Updated April
[Receivership - Order Appointing Receiver](#) - Updated May 2021
[Receivership - Order to Disburse Funds](#) - Updated April 2021

86

Must the court hold a hearing?

No!

It is up to the court whether to hold a hearing or notify the judgment debtor of the application.

The court may grant the order ex parte.

Question:

- Why might you notify them?
- Why might you not notify them?

87

- There is no filing fee for an application to appoint a receiver
- Costs are included in the form order appointing a receiver since the judgment creditor is entitled to recover reasonable costs, including attorney's fees.
- But the receiver's fees must be reasonable and fair based on the amount of work done.

Fees and costs

88

Approval of receiver's fees

- The receiver's fee is only approved conditionally.
- When they complete their work, they must ask the court to approve their fee based on the work they performed and the results they obtained.
- The court may approve the fee requested (typically 25% of the amount of the debt, which is added to the debt), or the court may approve a lesser amount.

89

I got your form right here.

See Order to Disburse Funds at this link: <https://www.tjctc.org/tjctc-resources/forms.html> > Civil Procedure Forms > Enforcement of Civil Judgments > Receivership – Order to Disburse Funds

[Exempt Property Claim Form \(Supreme Court Form\)](#) - Added
[Exempt Property Claim Form - Instructions \(Supreme Court F](#)
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[Receivership - Order Appointing Receiver](#) - Updated May 2021
[Receivership - Order to Disburse Funds](#) - Updated April 2021

90

Tex. Civ. Prac. & Rem. Code § 31.002(b), again

The court may:

(1) order the judgment debtor to **turn over** nonexempt property that is in the debtor's possession . . . , together with all documents or records related to the property, to a designated sheriff or constable for execution; . . . or

(3) **appoint a receiver** with the authority to take possession of the nonexempt property, sell it, and pay the proceeds to the judgment creditor to the extent required to satisfy the judgment.

91

What is in a turnover order?

- The court orders the judgment debtor to turn over any non-exempt property to the constable or sheriff.
- Compare this to a writ of execution, which orders the constable or sheriff to take the property.

92

Judgment creditor's burden

Same as for appointment of a receiver.

The judgment creditor must also show that the judgment debtor owns property that is non-exempt and therefore may be used to satisfy the judgment.

The court where the application is filed is the court of jurisdiction, which is either:

- The court that issued the judgment; or
- A court where a foreign judgment has been domesticated.

93

How much evidence

- "some evidence"
- You are the fact finder

94

Must the court hold a hearing?

It is not required. It is up to your discretion.

95

Does the order have to identify the property to be turned over?

Technically no.

But the property must be non-exempt, so the court may not order the judgment debtor to turn over the current wages or the paycheck.

96

The problem with being vague.

The turnover order can only be enforced with a contempt hearing, but how can the judgment debtor be held in contempt with an order that didn't order specific property to be turned over.

97

To whom does the judgment debtor turn over the property?

Not directly to the judgment creditor.

The property must be turned over to the constable or sheriff.

98

Fees and costs for turnover order

There is no filing fee for a turnover order.

But the constable or sheriff may charge a service fee.

Costs may be included in a turnover order since the judgment creditor is entitled to recover reasonable costs, including attorney's fees.

99

What do debt collectors prefer?

- Receivers!
- Not turnover orders, not garnishments
- Why is this so?

100

Time for a Poll

101

A turnover order:

- Orders the Constable or Sheriff to seize non-exempt property of the judgment debtor and turn it over to the judgment creditor.
- Orders the judgment debtor to turn over non-exempt property to a Constable or Sheriff for them to sell and pay the proceeds to the judgment creditor.

102

Keeping a judgment alive –
Tex. Civ. Prac. & Rem.
Code § 34.001

(a) 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.

103

Tex. Civ. Prac. & Rem. Code §
34.001(b)

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. A second writ may be issued at any time within 10 years after issuance of the first writ.

104

Special rule for
Houston area

In Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Harris, Waller and Washington counties, garnishment = writ of execution for the purposes of keeping a judgment active.

This position has been criticized by a bankruptcy judge. TJCTC does not recommend that you follow this if you work in a different county.

105

Reviving a dormant
judgment

- If a judgment becomes dormant, it can be revived by a writ of scire facias or by an action of debt (a new suit) if brought within two years after the date the judgment becomes dormant.
- See Civil Deskbook, pages 158-59

106

Timeline

- March 1, 2015 – Judgment entered
- March 1, 2025 – Date judgment will become dormant without a writ of execution
- March 1, 2027 – Date judgment will die without a writ of scire facias

107

Exempt property
and exempt
property hearings

108

Common exempt property

- See your Exempt Property Benchcard (Handout 1)

109

Homestead

Each person or family can designate a homestead that will be safe from creditors.

Most people already know about this because there are also property tax benefits to designating a homestead

See

<https://comptroller.texas.gov/taxes/property-tax/exemptions/residence-faq.php>

110

Size of a homestead

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

111

Current wages

Current wages are exempt except for court-ordered child support, spousal maintenance, federally guaranteed student loans, or federal income taxes owed. Civ. Prac. & Rem. Code section 63.004.

Most often current wages come up in garnishment.

112

Definition of “current wages”

“Current wages” are an employee’s pay that is due for personal services.

- This doesn’t include commissions paid to an independent contractor.
- Once the money is deposited in a bank account, it is no longer “current.”

113

Proceeds of current wages are also protected

- Many argue that a check deposited into a bank account is a “proceed” of “current wages.”
- Problems with this argument
 - Lege specifically identified checks as proceeds, failed to mention deposits
 - If Lege wanted to change the point at which wages stopped being current, why didn’t they do that expressly?

114

Retirement, Healthcare & College Savings Plans are exempt

Federal law also makes these issues exempt.

Why do you think they are exempt?

115

Time for a Poll

116

A judgment debtor has 30 head of cattle on his ranch. How many can the constable seize?

- a. 12
- b. 18
- c. 30
- d. none

117

John is a judgment debtor who owns five vehicles. He has a 17-year-old daughter and a wife who live with him. How many vehicles are exempt property?

- A. Only 1
- B. All 5
- C. 3 if they each have a driver's license

118

Exempt Property Hearings

119

Judgment language

All judgments issued by a justice court that award money damages must now contain this language in English and Spanish:

- "If you are an individual (not a company), your money or property may be protected from being taken to pay this judgment. Find out more by visiting www.texaslawhelp.org/exempt-property."

120

Updated forms on TJCTC site

This includes judgments in:

- debt claims cases
- small claims cases
- defaults
- eviction cases which award back rent
- summary disposition.

121

TRCP 679b Personal Property Exemptions in Post-Judgment Proceedings

Handout 2

RULE 679b. PERSONAL PROPERTY EXEMPTIONS: PROCEEDINGS

(a) *Exemption Notice.*

- (1) *Notice Required.* If a post-judgment turnover order under section 31.002 of the Civil Practice and Remedial Code, or other post-judgment order for personal property of an individual judgment debtor, the judgment creditor must serve the judgment debtor with the Instructions for Protected Property Claim Form approved by the Supreme Court or judgment creditor must fill in the case style and "Notify" in the Protected Property Claim Form.

122

Service of forms

The judgment creditor or receiver must serve the judgment debtor with the Seizure Exemption Notice, Instructions and Exemption Claim Form within three days after they have notice that property has been seized.

123

Restrictions on sale of property

- Seized property may not be sold within 14 days after service of those documents (17 days if service is by mail).
- If a judgment debtor files a Seizure Exemption Claim Form, the court must hold a hearing and the property may not be sold until the court determines the claim.

124

The hearing

- Each party is entitled to notice of the hearing.
- The burden of proof is on the judgment debtor.

125

Timelines

The court must determine the Exemption Claim within 10 days after the judgment debtor files the claim.

- The court may extend the time for good cause.

If the court determines the property is exempt, the court must order its release within three business days.



126

Exempt Property
Lightning Round

127

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</i>	Property Code 42.001
Professionally Prescribed Health Aids <i>*of debtor or debtor's dependent</i>	

128

- A. Exempt
- B. Non-exempt

Urban homestead

129

- A. Exempt
- B. Non-exempt

Rural homestead

130

- A. Exempt
- B. Non-exempt

Second home

131

- A. Exempt
- B. Non-exempt

Burial plots

132

- A. Exempt
- B. Non-exempt

Current Wages

133

- A. Exempt
- B. Non-exempt

Spousal Maintenance

134

- A. Exempt
- B. Non-exempt

Bible or other religious text

135

- A. Exempt
- B. Non-exempt

Pension or retirement accounts

136

Amber gets a judgment against Bronson. She knows Bronson has a lake house on Lake Travis. In order to be able to get money from the sale of the lake house to pay the judgment, Amber needs a _____.

137

Thea wins a judgment against Jasmine and finds out in post-judgment discovery that Jasmine has money in the bank. If Thea wants to get that money, she needs a _____.

138

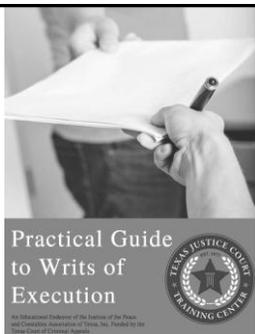
Bronson wins a judgment against Mark. Mark owns valuable pieces of hemp art. In order for that art to be seized and sold, and the money given to Bronson, he should get a _____.

139

Mark wins a judgment against Rebecca. Rebecca has some property in a lockbox and wouldn't allow the constable to look inside during execution. What kind of order could Mark get to force Rebecca to let the constable take the property? _____.

140

This TJCTC publication is aimed more at constables but can educate on what occurs when writs are executed.



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Other resources

- Garnishment module! You may watch it here: <https://www.tjctc.org/onlinelearning/selfpacedmodules.html>
- Civil Deskbook (5th ed. Oct. 2025) : <https://www.tjctc.org/tjctc-resources/Deskbooks.html>
- Legal Board: search for abstract, execution, garnishment, turnover, receiver, exempt, dormant!
- Forms: <https://www.tjctc.org/tjctc-resources/forms/Small-Claims.html>
- Exempt Property Chart: <https://www.tjctc.org/tjctc-resources/Charts-and-Checklists.html>

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