



Michael Gould, District Clerk

Effective December 1, 2016

LANGUAGE FOR ORDERS TO WITHDRAW FUNDS FROM THE REGISTRY OF THE COURT AND/OR THE GENERAL FUND

As ministerial officers, District Clerk Office employees are barred from using their personal discretion when performing functions for a court. Thus, when presented with an order from a court, a District Clerk employee must perform in strict conformity with the orders' language and not make any assumptions or personal interpretations. **Orders to disburse funds must be clear, complete and void of any uncertainty.** Therefore, to avoid any unnecessary delays in the disbursement of funds, please consider the following five issues when drafting an order to disburse:

1. Does the order clearly state the **DISTRICT CLERK IS ORDERED TO** issue the check?
2. Does the order state exactly who is to receive the check? For example: The District Clerk is ordered to **ISSUE A CHECK PAYABLE TO JEAN LOUISE DOE**.
3. Does the order include the amount to be paid? For example: the District Clerk is ordered to issue a check payable to Jean Louise Doe **FOR AN AMOUNT EQUAL TO ALL FUNDS PLUS ACCRUED INTEREST, LESS ANY ADMINISTRATIVE FEES** or **THE PRINCIPLE AMOUNT OF \$____, PLUS ACCRUED INTEREST, LESS ANY ADMINISTRATIVE FEES**.
4. Does the order **WAIVE THE THIRTY-DAY WAITING PERIOD**? Without this language, we **WILL WAIT** thirty days before making the disbursement. Language such as "immediately", "instanter", and "without delay" are not sufficient to waive the thirty-day waiting period.
5. The only time the thirty-day waiting period will be automatically waived is for Criminal Cash Bond disbursements and OAG cases.

When an orders' language does not address the above five areas, our office will be unable to make a disbursement until the defects are cured.

Please be advised, Per Chapter 117 of the Texas Local Government Code for funds deposited in the registry of the court- **"We are required by Texas Local Government Code 117.054 to pay 10% of the interest earned on the investment to the general fund of the county. If funds are not invested, Texas Local Government Code 117.055 requires that at the time of withdrawal, we deduct from the amount of the withdrawal a fee in an amount equal to five percent (5%) of the withdrawal, but that may not exceed \$50. Withdrawal of funds generated from a case arising under the Family code is exempt from the fee deduction provided by this section."**