

Steps in the Texas Civil Litigation Process

Research.

Research what kind of legal case you have, and which court you should file it in. (See Texas Government Code §24.007 and Texas Government Code §26.042.)



File Suit.

To start your lawsuit, you'll prepare a form called a **Petition**. Give this form to the Clerk of the Court (**filing**). The person who files the Petition is called the **Plaintiff**. (See Texas Rules of Civil Procedure Rule 22.)

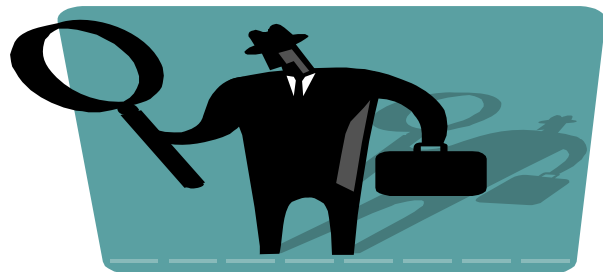
Give Legal Notice.

You have to tell the person (or business) you're suing that you have filed a lawsuit against them. This is called **giving legal notice**. To give legal notice, ask the court clerk to issue **citation**, and arrange for a process server to give the citation to the person (or business) you're suing. The party you sue is usually called the **Respondent** in a civil case, but may be referred to as the **Defendant**. (See Texas Rules of Civil Procedure, Rule 99.) The Respondent may file a response to your lawsuit, called an **Answer** or **counter-claim**, with the court clerk.

Gather Information.

Discovery is a tool that people use to get information from the other side in a lawsuit. The plaintiff chooses a Discovery Plan from Texas Rules of Civil Procedure 190. Each party can ask the other party to:

- Answer written questions (*Requests for Admissions, Disclosure or Interrogatories*)
- Allow a party to look at documents, real property, or other things that the other party controls (*Request for Production, Inspection, Entry*)
- Submit to a mental or physical exam
- Attend an oral or written **deposition** – a procedure where a witness is questioned, under oath, and the answers are recorded
(See Texas Rules of Civil Procedure, Rule 192.1 and 192.2.)



Answer Discovery

If you've been sent Discovery, answer it within the time that the court orders or the civil procedure rules require. Answer completely, based on all information reasonably available to you. (See Texas Rules of Civil Procedure, Rule 192.7 – 193.1)



Before Trial.

Motions and Requests

Sometimes, parties need to ask the court for things before trial. This is done by filing ***motions*** and ***requests***.

Request for Jury. If your case is the kind of case that a jury can decide, and you want a jury, you have to ask for one. Not every case is allowed a jury. ([See Texas Rules of Civil Procedure 216a](#)).

Motion for Continuance. File a *Motion for Continuance* to ask the judge to postpone your hearing. Your motion must be written and notarized. It must include the reasons why your hearing should be postponed. ([See Texas Rules of Civil Procedure 247, 251-254, 330\(d\)](#).)

Motion to Amend Pleading. You may change your pleading before trial by filing the new pleading (titled ***Amended***) with the court clerk and notifying the other party. But if you want to change your pleading within seven days of the trial, you must ask the court's permission in a *Motion to Amend Pleading*. ([See Texas Rules of Civil Procedure 63-65](#).)

Petition in Intervention. A third party files a ***Petition in Intervention*** to join a lawsuit that has already started. ([See Texas Rules of Civil Procedure 60-61](#).)



Ending Your Case Before Trial

Sometimes, your case may end before you even go to trial.

Nonsuit. If the Respondent hasn't filed a pleading, and the Plaintiff hasn't shown evidence to the court, the Plaintiff can end the case by filing a Notice of Nonsuit with the court clerk. ([See Texas Rules of Civil Procedure 162, 163](#).)

Dismissal. A judge can dismiss a case if the Plaintiff didn't file it properly or didn't follow the *Texas Rules of Civil Procedure*. ([See Texas Rule of Civil Procedure 165a](#))

Settlement. Parties can work out an agreement and resolve part or all of a case before it goes to trial in a settlement agreement. ([See Texas Rule of Civil Procedure 11](#).)

Summary Judgment. When the parties agree to the facts in a case or there is no evidence to support the claim or defense, the judge can grant a motion for Summary Judgment, and decide the case before trial. ([See Texas Rule of Civil Procedure 166a](#).)

Default Judgment. The judge can give a default judgment to the Plaintiff when the Respondent has been served with citation, but does not respond to the case or the Respondent has filed a response, but fails to appear for trial. ([Texas Rules of Civil Procedure 85, 99, 237, 239](#).)



Trial.

The parties present evidence at trial and a judge or jury decides the case. The judge announces the decision in a judgment. The judgment is effective immediately, but the deadline for appealing the judgment doesn't begin until the judge signs the judgment, in a written order.

After Trial.

Appealing the Judgment

A party who is unhappy with the judgment, has a right to appeal it.

Motion for New Trial. A party can ask the judge to set aside the judgment and grant a new trial when an error at trial affected the outcome. The *Motion for New Trial* must be filed with the trial court clerk within 30 days after the judge signs the judgment. ([See Texas Rules of Civil Procedure 320-329b.](#))

Filing a *Motion for New Trial* within 30 days after the judgment is signed extends the time to file a notice of appeal. ([See Texas Rules of Appellate Procedure 26.1\(a\).](#))

Notice of Appeal. A party can ask an appellate court to review the trial court's decision by filing a Notice of Appeal with the trial court clerk. ([See Texas Rule of Appellate Procedure 25.1c](#)) The person filing the appeal is called the Appellant. The Appellant will pay appellate fees to the court, unless a court waives the fees after the Appellant files an Affidavit of Indigence with the Notice of Appeal.

A Notice of Appeal must be filed within 30 days after the trial judge signs the judgment, unless a Motion for New Trial was filed. If the Motion for New Trial was filed, the Notice of Appeal must be filed within 90 days after the trial judge signs the judgment. ([See Texas Rule of Appellate Procedure 26.1](#))



Enforcing the Judgment

After the judge signs the judgment (written order), you may need to take steps to enforce it. To enforce a judgment for money, you might use a Writ or a Judgment Lien.

Writ of Execution.

Under this procedure, the court clerk issues a Writ and delivers it to a peace officer. The Writ authorizes the peace officer to take (“levy”) the judgment debtor’s nonexempt property. The property will be auctioned, and the proceeds will be used to pay the judgment. (See [Texas Rules of Civil Procedure 621, 622, 630, 637.](#))

Sometimes, you won’t be able to collect the judgment immediately. But you can protect it by attaching a Judgment Lien against the judgment debtor’s property.

Abstract of Judgment.

Places a lien against the judgment debtor’s property. It needs to be filed in the Judgment Records of every county where the debtor owns real property (land) or might one day own real property. The lien will have to be paid before the debtor’s property can be sold or transferred. (See [Texas Property Code §52.001.](#))



Turnover Statute.

If the debtor owns assets that can’t be easily levied by a peace officer or attached with liens, the court might still be able to help you collect your judgment. Under the Turnover Statute, a trial court can order the judgment debtor to “turn over” nonexempt assets to an officer or court receiver. (See [Civil Practice and Remedies Code §31.002.](#))

Review Steps

1. Research
2. File Suit
3. Give Notice
4. Gather Information
5. Before Trial
6. Trial
7. Appealing the Judgment
8. Enforcing the Judgment

Helpful Resources

Represent Yourself in Court by Nolo Press
Texas Rules of Civil Procedure – available online.
O’Connor’s Texas Rules – Civil Trials by Michol
O’Connor, Jones McClure Publishing