

2019-20 Level 1 Civil Certification Exam

Study Guide

This guide is aimed at helping a clerk study for and pass the Court Personnel Level 1 Civil Certification Exam. You will be directed to resources that will give you the information you will need to pass the exam. For the best chance of passing this admittedly difficult exam, we recommend that you:

- 1) Review all test-taking tips and information
- 2) Look up all materials recommended in this guide, reading them critically
- 3) Discuss any questions/concerns about what the materials may mean with another clerk or judge
- 4) Answer the practice exam questions at the end of this guide
- 5) Attack the test with confidence, knowing steps 1-4 have prepared you to succeed

DO NOT show up at school expecting to learn every piece of information that will be on the test. If you do this, **YOU WILL NOT PASS THE EXAM**. It is critical that you prepare in advance, learning the material you understand, and arriving with questions about the material you do not.



What Does the Exam Look Like?

The exam consists of **50 questions, which will be multiple choice, true/false, or matching**. You need to get **35** total questions correct to earn your Level 1 Civil Certification.

The questions will not ask you which specific section of the law covers a topic, but may ask you which code something is in. So, for example, you will not see a question like:

1. Which section of the Property Code covers writs of possession?
 - a. 24.0054
 - b. 24.0061
 - c. 92.008
 - d. 93.001

But may see:

1. Which code covers writs of possession in an eviction case?
 - a. Transportation Code
 - b. Property Code
 - c. Penal Code
 - d. Code of Criminal Procedure

Also, be advised, some of the questions do address substantive law issues. The committee elected to have some questions of this type on the test, because clerks frequently have case screening responsibilities, research responsibilities, etc., that make it beneficial to have such knowledge.

For example, a master clerk should know what is needed in order to grant a default judgment, even though the clerk cannot grant a default judgment, only a judge can.

Exam Schedule

The Level 1 Civil Exam at Court Personnel seminars begins at 8 AM on Day 3 of the seminar. From 8-8:45, there is a last-minute review session. You should arrive at this session fully prepared for the exam, with questions over sections of the material that you did not understand. This review session on its own is not enough for you to pass the exam.

Following a 15 minute break, test materials will be distributed at 9:00 AM, and the test will begin around 9:05 AM. You will have 75 minutes to take the test, meaning you will have until around 10:20 AM. Announcements will be made of the exact end time, and of time remaining. When you have completed and turned in your test, you are free to go until the post-test review begins.

TJCTC staff will grade the exams, and once they are graded, the post-test review will begin. The start time of this review will be around 10:30 AM. During this session, participants will see which questions they missed, see what the correct answers are, and have the opportunity to ask why the correct answers are correct. You **may not** take written notes during this process.

Following the post-test review, TJCTC staff will pick the exams back up. You will not be able to take your exam home with you. Certificates for those who pass will be provided at the registration desk. No announcements will be made in class indicating anyone's score or who passed.

If you do not pass, you can schedule a re-test at least 30 days after your original exam date at another court personnel seminar or at the TJCTC office in south Austin.

Test-Taking Tips & Strategies

1. Do not “overthink” the questions. Although the questions may be tough, they are not designed to be trick questions. Any information you need to answer the question will be in the question. Don’t make random assumptions about facts that are not stated in the question.
2. Carefully read the question and **all** of the answers. “Skimming” the question may make you misunderstand what is being asked. And if you read answer A and think “yep!” and mark A and move on, you missed that B and C were also correct and D was “all of the above.”
3. Don’t waste too much time on a single question. The time limit isn’t overly restrictive, as long as you keep moving. Stopping to think for 5 minutes on one question will put you behind schedule. If you think you know an answer but can’t think of it at the moment, skip it and come back. If a question is asking about something that you have never heard of, make an educated guess and move on.
4. Don’t leave any questions blank. There is no penalty for guessing. If you can eliminate one or more choices on a multiple choice question, great, choose from the rest.
5. Don’t second-guess yourself. Of course, change an answer if lightning strikes and you remember **for sure** that something else is the answer. But if you put B first, and then think “weIIlll, I dunno, maaayyybe it’s C?”, you are almost certainly better off leaving it as B.
6. RELAX. You will perform your best if you are relaxed. Prepare diligently, and then relax knowing you did all that you could. The worst-case scenario is that you get a timed run at the exam, including a full review of every question and answer, so you know what to study for next time. That’s not too bad!

Study Materials

Many of these topics are discussed in detail in non-legalese in our Deskbook series. The topics you need to study are listed by the Deskbook they are covered in, with reference to the rule, statute, or opinion that guides the answer. This guide will refer you to discussions in those deskbooks with the following designations: CVD – Civil Deskbook; ED – Evictions Deskbook; OD – Officeholding Deskbook.

Additional good resources are the Webinar and Newsletter Archives at www.tjctc.org under the Resources tab, for further discussion of many of these issues. Also, it would be well worth your while to study the Legal Terms and Definitions handout, also downloadable from our website.

IMPORTANT NOTE – The 2019 Legislative Session changed the laws regarding several of these items. We strongly recommend reviewing the 2019 Legislative Update materials, found at <https://www.tjctc.org/tjctc-resources/2019-Legislative-Update-Materials.html>. Additionally, any item that changed in the Deskbook section, we have marked with an *. **FOR THESE ITEMS, BE SURE AND REVIEW THE UPDATED STATUTES AND LEGISLATIVE UPDATE MATERIALS, AS THE DESKBOOKS HAVE NOT YET BEEN UPDATED TO INCLUDE THE NEW CHANGES.**

For laws that go into effect **on or after** September 1, 2019, do not apply the new law unless the facts of the question show that you should. For example, if the question asks “What is the justice court jurisdictional limit (dollar amount) for a case filed on or after September 1, 2020?”

In this guide, TRCP means Texas Rules of Civil Procedure, CPRC means Civil Practice and Remedies Code, and Prop. Code is Property Code. “Et seq.” means “a sequence of statutes or rules in a row, starting with this one.” So if it says TRCP 696 et seq, that means start with Texas Rules of Civil Procedure Rule 696 and keep reading until the topic changes. Statutes may be found at www.statutes.legis.state.tx.us.

Civil Deskbook

1. Identify and describe the four types of civil cases that can be filed in justice court. P. 1-2, TRCP 500.3.
2. Understand when and if the Rules of Civil Procedure and Evidence apply, and the court’s role in making them available. P. 2, TRCP 500.3.
3. Define jurisdiction, identify the two different types, and describe the justice court’s jurisdiction in civil cases. P. 3-4, Gov’t Code 27.031.*
4. Describe what a court should do if it has no jurisdiction, and how someone can raise the issue of no personal jurisdiction. P. 3-4, TRCP 120a.
5. Understand the “mere passage of time” rule related to jurisdiction. P. 6
6. Identify what should be in a civil docket, and if it can be kept electronically. P. 9-10, TRCP 507.3.

7. Describe what plenary power is and how long it is in justice court. P. 10, 70-73, TRCP 507.1.
8. State whether courts can provide forms to parties or require a party to use the court's form. P. 10, TRCP 507.2.
9. Identify and describe petitions, including special requirements in debt claim cases. P. 11-13, TRCP 500.2, 502.1, 502.2, 508.2, 509.2, 510.3.
10. Identify and describe filing fees, service fees, and statements of inability to afford payment of court costs, including contests. P. 14-15, TRCP 502.3.
11. Identify when a citation must be issued, what must be in the citation, how it should be served, and what should be served with it. P. 16-21, TRCP 501.1-501.4.
12. Understand what must be in a return of service, and how it is different if the service is by constable or by process server. P. 19-21, TRCP 501.3.
13. Be able to calculate timeframes and deadlines under the rules. P. 21-23, TRCP 500.5.
14. Identify who can represent parties in civil suits. P. 23-24, TRCP 500.4.
15. Identify types of discovery and the pretrial discovery process. P. 24-27, TRCP 500.9
16. Describe how documents other than the citation must be served on parties. P. 27-29, TRCP 501.4.
17. Describe venue, and what happens when a case is filed in an improper venue, and the procedure for a motion to transfer venue. P. 29-33, TRCP 502.4.
18. Describe an answer, and when it is due. P. 33-34, TRCP 502.5.
19. Describe counterclaims, cross-claims, and third-party claims. P. 34-37, TRCP 502.6.
20. Identify when parties can amend pleadings and challenge insufficient pleadings. P. 37-38, TRCP 502.7.
21. Understand default judgment procedures, including what is required to be on file, when a hearing is required, procedures for the hearing, and differences in debt claim cases. P. 38-45, TRCP 503.1, 508.3.
22. Define summary disposition and describe the procedure. P. 45-47, TRCP 503.2.
23. Identify how much notice a party must get for a trial setting, and the process for postponement of the trial. P. 49, TRCP 503.3.
24. Describe the process and limitations of a subpoena. P. 51-53, TRCP 500.8.
25. Describe what happens if the plaintiff or defendant doesn't appear for trial. P. 54, TRCP 503.6.
26. Describe when a party must request a jury trial, and how much the jury fee is. P. 54-55, TRCP 504.1.
27. Define peremptory challenges and know how many a party gets. P. 58, TRCP 504.2.
28. Understand what "invoking the rule" means. P. 60, TRCP 500.7.
29. Describe how interpreters get paid in civil cases. P. 60, TRCP 183.
30. Know whether or not the jury should be charged (explained the law) in civil cases. P. 65, TRCP 504.3.
31. Know how many jurors are on the jury and how many must agree. P. 65, TRCP 292.
32. Know what must be in a civil judgment. P. 66, TRCP 505.1.
33. Know the filing requirements, court action, and timing requirements of the following post-judgment procedures:
 - a. Motions to Reinstate, Set Aside Default Judgment, or for New Trial. P. 67-68, TRCP 505.3.

- b. Judgment Nunc Pro Tunc. P. 68-69, TRCP 316.
 - c. Appeal. P. 70-78, TRCP 506.1, 506.2.
 - d. Writ of Certiorari. P. 79-80, TRCP 506.4, CPRC 51.002.
 - e. Bill of Review. P. 80-82, TRCP 329b(f).
 - f. Writ of Attachment. P. 96-99. CPRC 61.001, TRCP 593-4, 598, 637.
 - g. Writ of Sequestration. P. 94-96, CPRC Chapter 62, TRCP 696 et seq.
 - h. Abstract of Judgment. P. 83-84, Prop. Code 52.001 et seq.
 - i. Writ of Execution. P. 85-87, 100-101, CPRC Chapter 34, TRCP 621 et seq, TRCP 635.
 - j. Writ of Garnishment. P. 87-90, CPRC 63.001, TRCP 657 et seq.
 - k. Revival of Dormant Judgment. P. 101-102, CPRC 34.001, 31.006.
 - l. Turnover Order and Application for Receiver. P. 90-94, CPRC 31.002.
34. Know what a writ of procedendo is and whether it is appropriate. P. 77.
35. Describe the procedure for post-judgment discovery. P. 83, TRCP 500.9.
36. Understand how a judgment for personal property is enforced. P. 83, TRCP 505.2.
37. Know the procedure for payment of unclaimed judgment. P. 99-100, CPRC 31.008.
38. Identify when the Judicial and Court Personnel Training Fee is assessed, and how much it is. P. 14, Gov't Code 51.971.
39. Apply the requirements and procedures for a foreign judgment filing. CPRC 35.004.

Evictions Deskbook

1. Define an eviction case, and what issues and claims can be raised in eviction cases. P. 1, TRCP 500.3, 510.3, Prop. Code 24.0051.
2. Know what rules apply to eviction cases. P. 1.
3. Identify the jurisdiction for eviction cases, and what happens if a case is filed in the wrong court. P. 2-3, TRCP 510.3, Prop. Code 24.004, Gov't Code 27.031.
4. Understand when an eviction case can be filed with no "landlord-tenant relationship." P. 4, Prop. Code 24.001, 24.002.
5. Distinguish between tenants for a fixed term, tenants at will, tenants by sufferance, and lodgers. P. 5-7, Prop. Code 92.001.
6. Understand the Protecting Tenants at Foreclosure Act, and how it impacts what notice to vacate is necessary. TJCTC Summer 2018 Newsletter.
7. Understand procedures in eviction suits including:
 - a. Grounds for eviction. P. 12
 - b. Notice to vacate, including the difference between termination notices and notices to vacate. P. 5, 12-15, Prop. Code 24.005, 91.001.
 - c. Representation in eviction suits. P. 15, TRCP 500.4.
 - d. Filing and contents of the petition. P. 15-17, TRCP 502.2, 510.3, 507.2.
 - e. Difference between tenants and occupants. P. 16.
 - f. Issuance, contents, and service of the citation, including return and alternative service. P. 19-23, TRCP 510.4.
 - g. Calculate the appropriate trial date for eviction suits. P. 20-21.
 - h. Immediate possession bonds. P. 23-24, TRCP 510.5.
 - i. Default judgments. P. 25-27, TRCP 510.6.
 - j. Trial date issues, including days after service and postponements. P. 27-28, TRCP 510.7.

- k. Effects of bankruptcy. P. 29
 - l. Retaliation and rent deduction defenses. P. 30-31, Prop. Code 92.331, et seq.
 - m. Procedure, including the fee, for requesting a jury trial. P. 32, TRCP 510.7.
 - n. Contents of the judgment, including possession, rent, costs, and attorney's fees. P. 32-34, TRCP 510.8, 510.11, Prop. Code 24.006, 24.00511, 24.0053.
 - o. Procedure for motion for new trial. P. 34, TRCP 510.8.
 - p. Writ of possession procedures and timeframes. P. 35-39. TRCP 510.8, 500.5, Prop. Code 24.0061.
 - q. Appeal, including timeframes and payment of rent into the registry of the court. P. 40-50, TRCP 510.9, 510.10, 510.11, Prop. Code 24.00511, 24.00512, 24.0053, 24.0054.
8. Understand rules and procedures in Manufactured Home Evictions. P. 51-55, Prop. Code Ch. 94.
 9. Understand rules and procedures in Commercial Evictions. P. 56-57, Prop. Code Ch. 93.
 10. Define a "contract for deed" and when it can be an eviction case. P. 61, Prop. Code 5.064.
 11. Describe the rules and procedures for writs of retrieval. P. 65-69, Prop. Code Ch. 24A.
 12. Describe the rules and procedures for writs of re-entry. P. 70-76, Prop. Code 92.0081, 92.009, 93.002.
 13. Describe the rules and procedures for writs of restoration. P. 77-81, Prop. Code 92.008, 92.0091.
 14. Describe the rules and procedures for repair & remedy cases. P. 82, 90-97, TRCP 509. Prop. Code 92.052.
 15. Describe procedures in security deposit cases, including whether they can be filed with an eviction suit. P. 99-102, Prop. Code 92.101 et seq.

Officeholding Deskbook

1. Identify the duties of the clerk, including when a signature stamp can be used. P. 17-18, Gov't Code 27.056, Attorney General Opinion JM-373.
2. Describe the different types of contempt and the punishments for each. P. 25-32, Gov't Code 21.002, Prop. Code 92.009, 92.0091.
3. Recordkeeping and reporting duties. P. 44-47; 52-55; 58-61.
4. Identify the costs that can be charged for copies. P. 64, Local Gov't Code 118.121.
5. Distinguish between case records and judicial records and describe the rules for public access to each. P. 121-129.
6. Identify the requirements of a clerk to post self-help resources for self-represented litigants. Gov't Code 51.808.