

# The \$20,000 Question!

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1

## Learning Objectives

- The student will be able to:
  - Recognize when the court does and does not have jurisdiction in civil cases;
  - Explain proper default judgment procedures;
  - Deal with an increase in the number of cases in which the parties are represented by lawyers;
  - Utilize technology to access important information and resources.

2

## Resources

- Civil Deskbook
  - [www.tjctc.org/tjctc-resources/Deskbooks.html](http://www.tjctc.org/tjctc-resources/Deskbooks.html)
  - TJCTC website: click “Resources” tab and then “TJCTC Deskbooks” in the drop down menu
- Rules 500 – 510, Texas Rules of Civil Procedure
- Civil Practices and Remedies Code
- Debt Claim Checklist
- Justice Court Rules: Time Periods
- Legal Board Questions & Answers

3

How Great Is Your Concern (if any) over the \$20,000 jurisdictional increase?

- A. Extremely high: I’m losing sleep at night
- B. Very high: I know filings are going up!
- C. Somewhat: It’s not until 9/1/20 so why worry now?
- D. Not worried at all: I’ve got this!

4

## What Do You Expect to See?

- A. More Debt Claim Cases?
- B. More Small Claims Cases?
- C. More Receiverships?
- D. More D\*\*\* Lawyers?
- E. All of the Above?
- F. I have no idea but I know I won't like it!

5

## What We Will Cover

- Just What This Means and When
- How Do You Determine Jurisdiction?
- Default Judgment Procedures
  - Debt Claim Cases
  - Small Claims Cases
- What You Might See More of . .
- Some Tips on Handling Lawyers

6

## How Does the Increase Work?

- Court's jurisdictional limit goes up to \$20,000 on Sept. 1, 2020.
- What do you go by?
  - The date the claim arose?
    - For example, to sue in justice court for \$20,000 for breach of contract, does the contract have to be breached after 9/1/20?

7

## How Does the Increase Work?

- The date the citation is served on the defendant?
  - Could I file my case on August 15 but not serve the citation on the defendant until Sept. 1?
- Or the date the case is filed in your court?

8

## SCENARIO 1

Susan files a small claims case on December 5, 2019.  
She is seeking damages for a car accident and asking  
for \$13,000.

What should the court do?

9

## SCENARIO 2

What if Susan waits and files her \$13,000  
suit on August 31, 2020?

What should the court do?

10

Does  
Anything  
Else  
Change?

- No!
- Here's the entire change in the law:
- "Sec. 27.031. JURISDICTION.  
(a) [T]he justice court has original jurisdiction of: (1) civil matters . . . in which the amount in controversy is not more than **\$20,000** [~~**\$10,000**~~], exclusive of interest . . . ."

11

Does  
Anything  
Else  
Change?

- So all the procedures for handling civil cases are the same!
  - Rules 500 – 510 have not changed at all!
- You will do everything just the way you've been doing it!
  - The only difference is parties can sue for up to \$20,000 rather than up to \$10,000.

12

## 2007 Amendments



**How many  
of you  
were here  
then?**



**What was  
the  
jurisdic-  
tional limit  
in 2006?**



**What did it  
go up to?**



**When did  
it go into  
effect?**



**How did it  
work out?**

13

Help With  
Increased  
Costs  
Due to More  
Filings

- SB 1840: amended Section 102.0173, Code of Criminal Procedure
  - That is the Technology Fund!
- It now says the Fund “may be used . . . to finance **“the cost of providing court personnel, including salaries and benefits for court personnel.”**”
- Effective: September 1, **2019** (NOT A TYPO!)

14

Help With Increased Costs  
Due to More Filings

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The Technology Fund may also be used for  
“the cost of continuing education and training  
for justice court judges and **court personnel.**”

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The purpose of increasing the scope of the  
Technology Fund was to provide **additional**  
funds.

15

Help With  
Increased  
Costs  
Due to More  
Filings

- Although the Technology Fund is administered by the Commissioners Court, the county should not just replace current funding for court personnel with the Technology Fund money.

16



How Do You Know if the Amount is Above the Court's Limit?

- Amount in controversy is determined by the plaintiff's petition at the time the suit is filed.
- You **include: contractual interest and attorney's fees**
- You **exclude: statutory interest and court costs**
  - Statutory prejudgment interest applies only in three types of cases: wrongful death; personal injury and property damage.
  - Not in a breach of contract case.
    - Section 304.102, Finance Code

17

### Scenario 3

Daniel sues Martha for not repaying a loan that she accepted on January 1, 2015 for \$9,000 with interest at 5% per year. Daniel files suit on January 1, 2020. At that time the accrued interest is \$2,250. Is Daniel over the jurisdictional limit in effect on 1/1/20?

- A. Yes
- B. No

18

### Scenario 4

Suppose the loan was made on January 1, 2019, and Daniel files suit on January 1, 2020. Loan amount is \$9,000 and accrued contractual interest is \$450. Is Daniel over the jurisdictional limit in effect on 1/1/20?

- A. Yes
- B. No

19

### Scenario 5

**BUT:** Suppose Daniel has attorney's fees of \$600 at the time he files his suit on January 1, 2020. Plus \$9,000 loan and \$450 in accrued interest. Now is Daniel over the jurisdictional limit in effect on 1/1/20?

- A. Yes
- B. No

20

### Scenario 6

What if Daniel just waits until September 1, 2020?  
Does the court have jurisdiction now?

- A. Yes
- B. No

21

### Scenario 7

Joan sues Barry in justice court on January 1, 2020, for running her over while recklessly riding an electric scooter at high speed on the sidewalk. Joan claims she has “surprise” medical bills (from the ER) and an EMS bill that total \$4,500 and she is also seeking:

- Statutory interest of \$600;
- Court Costs of \$51; and
- Exemplary (punitive) damages of \$5,000.

Does the court have jurisdiction?

- A. Yes
- B. No

22

### Scenario 8

- Daniel sues Martha for not repaying a loan that she accepted on January 1, 2017 for \$8,000 with interest at 5% per year. Daniel files suit on January 1, 2020. He is asking for:
  - \$8,000 plus:
  - Accrued interest of \$1,200;
  - Attorney's fees of \$650;
  - Court costs of \$51.
- The court has jurisdiction on 1/1/20 (total damages = \$9,850 plus court costs).

23

### Scenario 8

But by the time they get to trial the total accrued interest is \$1,400. So total damages sought are now \$10,050 plus \$51 in court costs. Does the court still have jurisdiction?

- A. Yes
- B. No

24

## Mere Passage of Time Rule

- If the court had jurisdiction at the time the suit was filed and the additional damages accrued as a result of “the mere passage of time,” then the court continues to have jurisdiction even if the amount in controversy goes above the court’s jurisdictional limit.
- Most common causes for this:
  - Contractual interest; and
  - Attorney’s fees.

25

## Remember!

- These rules apply exactly the same for \$20,000 as they now do for \$10,000!
- All we’re doing is changing one number!
- For more information on determining the court’s jurisdiction, see the Civil Deskbook at pages 4 – 7.

26

## Default Judgment Procedures

- Starting Point in Any Case:
    - Defendant fails to answer by the answer date.
    - Proof that the defendant was served.
    - Return of service on file for three days.
    - Statement of defendant's last known address.
    - Servicemembers Civil Relief Act affidavit.
- Rule 501.3(h), 503.1; Civil Deskbook at pages 38 - 39

27

## Default Judgment: Debt Claim Cases

- General rule = If the defendant does not file an answer or otherwise appear by the answer date, the judge must render a default judgment **upon plaintiff's proof of the amount of damages.**
- Rule 508.3

28

## How Does the Plaintiff Prove Their Damages?

- Evidence of damages must either be:
  - Attached to the petition and served on the defendant; or
  - Submitted to the court after defendant fails to answer
- Evidence may be offered:
  - In a sworn statement; or
  - In live testimony;
- This may include documentary evidence.

29

## What Does the Plaintiff Have to Prove?

- The account or loan was issued to the defendant and the defendant is obligated to pay it;
- The defendant breached the terms of the account or loan agreement;
- The amount due on the account or loan after all credits and offsets have been applied; and
- The plaintiff owns the account or loan and how the plaintiff acquired the account or loan.

30

## Documentary Evidence

- Documentary evidence may be considered if it is attached to a sworn statement made by the plaintiff, a prior holder of the debt, or the original creditor, that shows they were regularly kept business records.

31

## A Hearing is Not Required

- The judge may enter a default judgment without a hearing if the plaintiff submits sufficient written evidence of its damages and should do so to avoid undue expense and delay.
- Otherwise, the plaintiff may request a default judgment hearing at which the plaintiff must appear, in person or by telephonic or electronic means, and prove its damages.

32



## Result

- If the plaintiff proves its damages, the judge must render judgment for the plaintiff in the amount proven.
- If the plaintiff is unable to prove its damages, the judge must render judgment in favor of the defendant.
- See the Debt Claim Checklist: Handout 1

33

## Don't Forget: If the Defendant Appears!

- If the defendant files an answer or otherwise appears in a case before a default judgment is signed by the judge, the judge **must not** render a default judgment and must set the case for trial.
- If a defendant who has answered fails to appear for trial, the court may proceed to hear evidence on liability and damages and render judgment accordingly.

34

## Default Judgment: Small Claims Case

- The judge must render a default judgment **without any necessity for a hearing** if the following conditions apply:
  - The claim is based on a **written document** signed by the defendant;
  - A copy of the document has been filed with the court and served on the defendant;

35

## Default Judgment: Small Claims Case

- The plaintiff has filed a sworn statement that:
  - This is a true and accurate copy of the document;
  - The relief sought by the plaintiff is owed; and
  - All payments, offsets and credits due to the defendant have been accounted for.  
-- Rule 503.1(a); Civil Deskbook at page 39

36

Default  
Judgment:  
Small Claims  
Case

- If the claim is not based on a written document, then:
  - The plaintiff must request a hearing, either orally or in writing; and
  - The plaintiff must appear at the hearing and provide evidence of their damages.

37

Default  
Judgment:  
Small Claims  
Case

- If the plaintiff proves their damages, the judge must render judgment for the plaintiff in the amount proven.
- If the plaintiff is unable to prove their damages, the judge must render judgment in favor of the defendant.
  - Rule 503.1(a)(2); Civil Deskbook at pages 39 - 40

38

What Might  
We See  
More of?

- Debt Claim Cases
- Surprise Medical Bill Cases
- Personal Injury Cases
- Premises Liability Cases
- Repair and Remedy Cases
- Discovery Requests
  - Pre-judgment
  - Post-judgment

39

What Might  
We See  
More of?

- Enforcement of Judgments
  - Writs of Execution
  - Writs of Garnishment
  - Receivership Applications
- Motions
- Lawyers

40

Some  
Helpful  
Classes This  
Year  
to Let Your  
Judge Know  
About

- Translating Legalese to English
- Fundamentals of Contracts (focus on a contract for services)
- Crash Into Me (Auto Accidents)
- Practical Debt Claim Issues

41

Some  
Helpful  
Classes This  
Year  
to Let Your  
Judge Know  
About

- CPR for Civil Knowledge: Understanding the CPRC
- A Motion for What?!
- Webinars:
  - Slip & Fall Cases and Other Premises Liability Issues
  - Writs of Garnishment
- Civil Jury Trial Workshop at Baylor University

42

# DEBT CLAIM CASES

43

## Debt Claim Cases

- What Makes it a Debt Claim Case?
- Suit for a debt by:
  - a debt collector or collection agency;
  - a financial institution (like a bank);
  - an assignee (like Michael Scott);  
or
  - A person primarily in the business of lending money at interest.
- Is a debt claim case a contract case or a tort case?

44

### Scenario 9

Suppose Rebecca borrows \$1000 from Bronson and doesn't pay him back. Bronson says this is a debt so it's a debt claim case. Is it?

- A. Yes
- B. No

45

SURPRISE MEDICAL BILL CASES

46

## Surprise Medical Bill Cases

- What Are These?
  - Emergency Room
  - EMS
  - Out-of-Plan Doctors (example: anesthesiologists)
  - Co-pays and Deductibles
  - Hospital and Doctors' bills
- Are these contract or tort cases?

47

## Surprise Medical Bill Cases

- What Rules Apply to these Cases:
  - Small Claims Case
  - Rules 500 - 507
- What are the Key Issues:
  - Were the services authorized?
  - Are the fees reasonable?
- See Justice Court Time Periods: Handout 2

48



## PERSONAL INJURY CASES

49

### Personal Injury Cases

- What are some examples?
- Are these contract or tort cases?
  - Do you get attorney's fees?
  - May the plaintiff seek exemplary (punitive) damage?
    - What are those?
    - Are there any limits?
- What rules apply?
  - Small Claims Case
  - Rules 500 - 507

50

## Personal Injury Cases

- What are the Key Issues:
  - Causation:
    - Was the defendant's conduct the "proximate cause" of the plaintiff's injury?
  - Negligence:
    - Did the defendant act with the ordinary care of a reasonable person in the same or similar circumstances?
  - Damages
    - Medical bills
    - Pain and suffering?

51

## PREMISES LIABILITY CASES

52

## Premises Liability Cases

- Examples:
  - Slip and Fall at a grocery store or on the sidewalk outside your apartment
  - Failure to maintain safe premises
- Are these contract or tort cases?
- What rules apply?
  - Small Claims Case
  - Rules 500 - 507

53

## Premises Liability Cases

- What are the Key Issues:
  - Did the Defendant Owe a Duty to the Plaintiff:
    - To maintain safe premises
    - For example, lighting at an apartment complex
  - Causation:
    - Was the defendant's failure to maintain the premise the cause of the plaintiff's injury?
    - Did the plaintiff's actions contribute to their injury?
  - Damages
    - Medical bills
    - Pain and suffering?

54

## Repair and Remedy Cases

- What are some examples?
  - Mold due to Hurricane Harvey
  - Dilapidated dwelling
- What rules apply?
  - Rules 500 – 507 and 509
- See Repair and Remedy Flowchart: Handout 3
- See Evictions Deskbook at pages 83 – 99.

55

## Repair and Remedy Cases

- What are the Key Issues?
  - Is there a condition that materially affects the health and safety of an ordinary tenant?
  - Did the tenant notify the landlord of the condition?
  - Is the tenant current with their rent?
  - Has the landlord had a reasonable time to repair the condition following notice by the tenant but has not made a diligent effort to repair?

56

## Discovery Requests: Pre-Judgment

- Pre-trial discovery means before judgment.
- In other courts parties may serve discovery requests on the other side without asking the court first.
  - Examples of discovery requests are:
    - Interrogatories
    - Document Requests
    - Requests for Admissions
    - Depositions
- In justice court the parties may not start discovery without getting the court's approval first.

57

## Discovery Requests: Pre-Judgment

- Here's how the procedure works in justice court:
  - The party who wants discovery (this may be either the plaintiff or the defendant) must file a written motion with the judge.
  - The party must send a copy of the motion to the opposing party with a copy of the discovery they are requesting.

58

## Discovery Requests: Pre-Judgment

- The judge may allow the discovery, not allow the discovery, or allow some of it and not allow other parts of it.
- If the discovery is allowed, the court should send an order to all parties explaining which discovery requests are approved, when the responses are due, and where to send the responses.
- For more information, see the Civil Deskbook at pages 24 – 29.

59

## Discovery Requests: Post-Judgment

- Post-judgment discovery means discovery after the judgment has been entered.
- This is usually part of an effort to collect the judgment.
- So the discovery is used to find out where the defendant's assets are so the plaintiff can collect their judgment through a writ of execution or a writ of garnishment (for example).

60

Discovery  
Requests:  
Post-  
Judgment

- The party requesting the discovery must give the responding party at least 30 days to respond to the discovery request.
- The responding party may file written objections with the court within 30 days of receiving the request.  
-- Rule 500.9(b)

61

Discovery  
Requests:  
Post-  
Judgment

- If an objection is filed, the judge must hold a hearing to determine if the request is valid.
  - If the objection is denied, the judge must order the party to respond to the request.
  - If the objection is upheld, the judge may reform the request or dismiss it entirely.  
-- Rule 500.9(b)

62

## Discovery Requests: Post-Judgment

- What if the defendant fails to respond at all to a post-judgment discovery request?
- The plaintiff may file a motion for sanctions with the court, including holding the defendant in contempt for refusing to respond to the discovery requests.
  - Note: Rather than go through this procedure, many debt collectors request the appointment of a receiver.

63

## Enforcement of Judgments

- Covered in Judge Patronella's Class:
  - Writs of Execution
  - Writs of Garnishment
  - Appointment of Receivers
    - Broad Order: Handout 4
    - Limited Order: Handout 5
- For more information, see Civil Deskbook at pages 83 - 102

64



## Motions

- What kind of motions will you see more of?
  - Transfer of Venue
  - Motion to Clarify Pleadings
  - Motion to Dismiss under Rule 91a (baseless claim)
  - Motion to Consolidate
- Key Issue = Is the motion filed under Rules 500 – 510 or is it under one of the other rules?

65

## Motions

- The other rules of civil procedure do not apply in Justice Court except:
  - When the judge hearing the case determines that a particular rule must be followed to ensure that the proceedings are fair to all parties; or
  - When otherwise specifically provided by law or the rules of civil procedure.

66

# LAWYERS

67

## Lawyers

- Some know justice court rules!
  - Some not so much!
- Can be very frustrating
- A few suggestions:
  - Avoid arguments, if possible
  - Listen politely (practice nodding)
  - Tell them you will let your judge know
  - Tell them the judge would like them to submit a “letter brief” explaining their position

68

## Lawyers

- If you're not sure, tell them you will check and get back to them.
- Check the Deskbooks!
  - And feel free to show them the Deskbooks!
  - They are all available to the public (including lawyers!)
- Post a question on the Legal Board or call the Training Center.
- Even if they're not always professional, that doesn't mean you can't be!!