

# What Next? After a Case is Dismissed or a Judgment is Entered.

## **Must be filed within 14 days**

---

There are three possible motions that a losing party may file after a case is dismissed or a judgment is entered:

- **Motion by the Plaintiff to Reinstate the Case After Dismissal (\$54)**

A plaintiff whose case is dismissed may file a written motion to reinstate the case no later than 14 days after the dismissal order is signed. The plaintiff must serve a copy of the motion on the defendant no later than the next business day. The court may reinstate the case for good cause shown. *Rule 505.3(a)*.

- **Motion by the Defendant to Set Aside a Default Judgment**

A defendant against whom a default judgment has been granted may file a motion to set aside the judgment no later than 14 days after the judgment is signed. The defendant must serve a copy of the motion on the plaintiff no later than the next business day. The court may set aside the judgment and set the case for trial for good cause shown. *Rule 505.3(a)*.

- **Motion for New Trial (\$54)**

A party may file a motion for a new trial no later than 14 days after the judgment is signed. The party must serve a copy of the motion on all other parties no later than the next business day. The judge may grant a new trial upon a showing that justice was not done in the trial of the case. Only one new trial may be granted to either party. *Rule 505.3(a)*. **(Note: A motion for new trial may not be filed in an eviction case. Rule 510.8(e).)**

*Additionally, beginning January 1, 2022, the party filing a motion for new trial must also pay the same filing fee required to file a civil case in order to file the motion (unless they filed a Statement of Inability when filing the case or the motion).*

## **Must be filed within 21 days**

---

### **Filing an Appeal (\$64)**

A party may appeal a judgment in a small claims or debt claim case **within 21 days** after the judgment is signed or the motion to reinstate, motion to set aside, or motion for new trial, if any, is denied by:

- filing a bond,
- making a cash deposit, **or**
- filing a Statement of Inability to Afford Payment of Court Costs. Either party is entitled to file an appeal.

### **Amount of the Appeal Bond (\$\_\_\_ Ask court clerk)**

A plaintiff must file a \$500 bond. A defendant must file a bond in an amount equal to twice the amount of the judgment. *Rule 506.1(b)*.

*Additionally, beginning January 1, 2022, the party filing an appeal must also pay the same filing fee required to file a civil case in order to file the appeal (unless they filed a Statement of Inability when filing the case or the appeal).*

## **Bill of Review (\$54) After time has passed to file a motion or an appeal.**

---

A bill of review is an action by a party to a former suit who is seeking to have a default judgment set aside after the time to file a motion for a new trial or an appeal has passed. A bill of review is a way for a party to have a default judgment set aside, normally within four years after the judgment was signed, where there was a violation of due process (for example, the citation was never served) or the defendant was not able to present a meritorious defense through no fault or negligence of his own.

## **Post-Judgment Remedies**

---

If the judgment is in your favor, you will almost surely not walk out of court with a check in the full amount of the judgment. The defendant might file a motion for new trial or an appeal. If they don't, it is your responsibility, not the court's, to pursue enforcement of the civil judgment. Below is a brief description of some of the tools that you can use to enforce a judgment.

**WARNING:** Not all of these tools may be useful in any given situation. If you are unsure which of these to use, you may wish to consult with an attorney.

**Post-Judgment Discovery:** You can send questions to the defendant that they must answer describing what assets they may have that could be used to satisfy a judgment. The defendant gets at least 30 days to respond to these discovery requests. It is not required to get the judge's approval for post-judgment discovery.

**Abstract of Judgment (Fee: \$5.00)** If the defendant owns real property (land), you can get an abstract of judgment from the court that issued the judgment and file it with the county clerk in the county or counties where the defendant owns the property. This puts a lien on the property in your name, which means if they sell the property, you could receive some of the proceeds to satisfy the judgment.

**Writ of Execution (Fees: \$5.00 writ fee+ \$400.00 Constable Service within Dallas County)**

This is an order for the constable to go out and seize the defendant's personal property and sell it to satisfy the judgment. **IMPORTANT** – many items of personal property are exempt, meaning it is not legal for the constable to seize them and sell them. To get a writ of execution, you file an application with the court that issued the judgment, at least 30 days after judgment.

**Writ of Garnishment (Fees: \$5.00 writ fee + service on garnishee \$400.00 + service on debtor \$80.00)**

This is used when another person or company has money or property that belongs to the defendant, and they are ordered to give it to you to satisfy the judgment. Almost always this is used to take money from a bank account held by the defendant. To get a writ of garnishment, you file an application including an affidavit (sworn statement) explaining why you are entitled to the garnishment with the court that issued the judgment.

**IMPORTANT** – if the person or company has no money or property belonging to the defendant, you may be responsible for paying attorney fees related to their response. Be very sure that a writ of garnishment is the best option before getting on